January 8, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

Vice President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, January 8, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, Mark Wickizer and Matt Miller, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the December 11, 2018, meeting. **Mr. Wickizer made a motion to approve the minutes as written, seconded by Mr. Berger. Motion carried by acclamation.**

The second item of business was the election of officers for the Marshall County Board of Zoning Appeals.

Mr. Wickizer made a motion to nominate Mr. Gustafson as President, seconded by Mr. Berger. Motion carried by acclamation.

Mr. Wickizer made a motion to nominate Mr. Bennett as Vice President, seconded by Mr. Berger. Motion carried by acclamation.

Mr. Bennett made a motion to nominate Mr. Wickizer as Secretary, seconded by Mr. Berger. Motion carried by acclamation.

The third item of business was 19-BZA-01 LAZZARONI, Ron & Maria – A request for a Special Use to allow a temporary use of a 34' travel trailer until all requirements are met to build which include pipeline easement, septic & well, located at 3450 Maple Rd., Plymouth, IN North Twsp., Zoned A-1. Mr. & Mrs. Ron & Maria Lazzaroni were present to represent their request. Mr. Adley presented the findings of fact.

The subject property was under violation of the Zoning Ordinance and the property owners have since worked to clean up the property. They are currently in the process of removing the existing mobile home with intentions to build on the property. While they finish cleaning up the property they would like to stay on the premises. The applicant indicates that there is a gas line that runs through the property encumbering part of the buildable area. The property is also encumbered by a flood zone on the rear half of the property.

When asked what the easement is with a gas line on the property Mr. Adley commented that it

is primarily up to the utility provider. Some can vary in size due to the type of pipeline. Ms. Lazzaroni believes the easement is fifty feet. The first pipeline was installed in 1959 and the other in the 1970's.

The applicant's primary residence is in Chicago and their intent is to make this travel trailer their summer home a couple days at a time. While at the property they are working to get it cleaned up.

It's their hope to purchase the property to the north so they can build a home someday in the future.

Mr. Gustafson asked the Lazzaroni's their intentions and if they are planning on living in the trailer. Mr. Lazzaroni stated that they are not going to be living there. They will be staying there on the weekends. When they are not there it's their plan to leave the travel trailer on the property. There will be times they will take the travel trailer and go camping elsewhere, but the majority of the time the trailer will be staying at this site.

After a discussion and further clarification, they made it clear they didn't want live their just stay on the property every now and then. It was re-iterated by the board the ordinance only allows temporary stays of no more than 8 weeks out of the year.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. Kay Miller – Lives next door to the property. Their property hasn't been mowed for over 2 years. They have made tremendous progress since owning the property. With all the high grass and weeds also comes mice. They buy poison by the bucket full trying to keep them off her property. In favor.
2. Judy Clark – In favor of the request. Have seen how they have cleaned up said property and believe they should be allowed to stay their temporarily.

Mr. Wickizer moved and Mr. Bennett seconded the motion to close the public hearing. Motion carried by acclamation.

The Lazzaroni's stated that there is an existing septic system on the property and haven't checked on it's status at this time. Once it is checked and approved, they plan on hooking up to it. The same goes with the well.

Mr. & Mrs. Lazzaroni requested to withdraw the request.

The fourth item of business was 19-BZA-02 BORKHOLDER, Joseph – A request for a Variance of Development Standard to reduce the east side yard setback from the required 15' to 8' in order to build these greenhouses with ample space between for ventilation, located at 534 Plymouth Goshen Tr. Nappanee, IN German Twp, Zoned A-1. Mr. Joseph Borkholder was present to represent his request. Mr. Adley presented the findings of fact.

The proposed reduction in the setback on the eastern property line will be adjacent to a

proposed hoop house. The neighboring barn would be approximately 40' apart. The property owner has a residence, 4 barns, and one existing hoop house with two or more planned for the open space with 35 total acres on the property.

When Mr. Borkholder was asked why he could place the proposed structure on the other side of the existing building he said he uses that area as a paddock to raise turkeys.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Wickizer commented that it looks like there could be a way to re-organize the buildings and not need a variance which is the preferred way.

While discussing the possibilities and having a residential property so close and having a large parcel the board was finding it difficult to see reasons to approve the request.

Mr. Borkholder stated that the hoop structures have dirt floors to grow the plants in. They are somewhat movable.

Before starting the project, Mr. Borkholder asked his neighbor his thoughts on the project and he had no problems with the request.

With being somewhat movable Mr. Wickizer made a motion to approve 19-BZA-02 BORKHOLDER, Joseph – A request for a Variance of Development Standard to reduce the east side yard setback from the required 15' to 8' in order to build these greenhouses with ample space between for ventilation, located at 534 Plymouth Goshen Tr. Nappanee, IN German Twp, Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 3-2 with Bennett and Mr. Gustafson voting against.

The fourth item of business was 19-BZA-03 BOKRHOLDER, Floyd – A request for a Special Use to allow for a retail buggy sale lot, located at 2525 Birch Rd., Bremen, IN 46506, German Twsp., Zoned A-1. Mr. & Mrs. Floyd Borkholder were present to represent their request. Mr. Adley presented the findings of fact.

The lot was found to be in violation with the Zoning Ordinance and a code case was opened for a commercial sales lot (for buggies) and a notice of violation was issued. The property owner contacted staff on options to remedy the situation where staff indicated that they could enter rezone the property to commercial zoning or to pursue a variance of use for the property. The property owner constructed 2 accessory structures (permitted) and a sign (not permitted).

When the lot was purchased there was an existing structure. Later a small structure was built on skids. A small structure was put on the rear of the property to house the generator. The building that was shown on the property is for sale.

Mr. Borkholder stated that they are buying the lot on land contract which started

approximately two years ago. The business was opened in June of 2018. The original building is used to store all the new buggies and for storage.

Mr. Miller asked what he intends to sell on the property. Mr. Borkholder stated that he will sell buggies, buggy parts, horse shelters, horse related items such harnesses and blankets.

This property is located on the corner of 2B and Birch Road which is adjacent to multiple other Amish related businesses.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

There is plenty of parking as well as a hitching post. There is room for seven buggies. The original building is a 32x64 structure which is 2,048 sq ft and seems to meet all parking space requirements.

As far as the future of this proposed business Mr. Borkholder isn't sure as this is totally new to the community. Eleven buggies can be stored in the main building and eight in the smaller building. If buying from the manufacturer there is sometimes a 9-14-month lead time. The business hours are to be Monday through Saturday from 8-6.

Mr. Berger made a motion to approve <u>19-BZA-03 BOKRHOLDER, Floyd –</u> A request for a Special Use to allow for a retail buggy sale lot, located at 2525 Birch Rd., Bremen, IN 46506, German Twsp., Zoned A-1 with the following stipulations:

1. **The business sign will need to be permitted**
2. **Hours of operation Monday through Saturday 8-6**

Seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

February 12, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

Vice President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, February 12, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, Mark Wickizer and Matt Miller, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the January 8, 2019, meeting. **Mr. Wickizer made a motion to approve the minutes as written, seconded by Mr. Bennett. Motion carried by acclamation.**

The second item of business was 19-BZA-04 MULLET, Marlin & Erma – A request for a Special Use to allow a 60x82 commercial addition to an existing commercial structure for shipping and an additional 100x200 commercial building which will be used for production and warehouse, located at: 4463 Beech Rd., Nappanee, IN 46550 Parcel ID 50-44-08-000-018-001-005. Mr. & Mrs. Marlin & Erma Mullet were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to expand their woodworking operation with two expansion projects. The applicant has been growing the business since approximately 2004 when Mr. Mullet pursued an 80'140' woodworking shop for the creation of cabinetry. Since that time Mr. Mullet has been before the Board for various additions. Mr. Mullet was before the Board most recently in 2013 for a 48'x72' expansion. The subject property is approximately 2 miles from US 6.

Staff recommends approval of the proposal provided that the following conditions are met: Obtain Commercial Design Release from the state, combine new tract with parcel 50-44-08-000-018-001-005, not allow for any new driveway frontage, unless the existing driveway access is reduced in order to create a more organized means of access (250' existing), locate and verify setbacks, impervious surface coverage, and parking) through the site planning process.

Mr. Gustafson asked if this case will be reviewed by the TRC committee. Mr. Adley explained that the TRC committee has looked at the request. However, it wasn't required as TRC's requirement is based on zoning not use. Mr. Gustafson's concern was drainage due to the impervious area. A drainage plan is being required because the building is greater than 4,000 sq feet, said Mr. Adley.

Mr. Bennett asked what requirements there were if any for the current graveled areas and if what they have is okay. Mr. Adley explained that the ordinance requires different standards on driveways that are in a commercial or industrial zone. It doesn't require said driveway requirements on a commercial use.

Mr. Mullet is aware of the requirement of the drainage plan and understands there will be substantial work re-routing the existing drainage tile on the property. During the last addition the retention pond that was built larger than needed or required. At the catch basin Mr. Mullet is looking to asphalt around it to eliminate issues of gravel getting in it when plowing snow.

Mr. Bennett stated that this board supports home based businesses in the County. There is a concern with the current size of 48 employees of how much bigger you plan to get. If this business were in a commercial or industrial zone there would be many more guidelines that would need to be followed. For public safety reasons and this size of operation that needs to be some of those guidelines adhered to. The board suggested maxing out the number of employees to 55.

The new structure will house an optimizing chop saw that is 80' long. It is supposed to reduce man hours of up to three men. The building will also have a breakroom and a restroom.

The existing plant will be a door shop. The 100x200 will strictly be moldings and mill room area.

As far as the septic the State Department of Health will be involved in reviewing this commercial operation. When processing the site plan review and prior to issuing a permit the Planning Department will confirm approval from the State Department of Health's approval before issuance of the building permit.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Bennett seconded the motion to close the public hearing. Motion carried by acclamation.

The business hours are primarily 5am – 3 pm Monday thru Friday. No additional signage is planned. If there is 55 employees there will need to be 55 parking spots available. Mr. Adley spoke about there being different modes of transportation when living within a two-mile radius and that there is an understanding that the parking for bicycles accounted for those parking spaces. There is also a mixed mode of transportation that includes carpooling. The plan is to have some parking area in the front as well as in the rear of the property.

The plan is to reduce the 250' entrance to an entrance on the north side of the property with angled parking in the front and a exit and truck access on the southern portion of the property that will allow deliveries to be dropped off as well as a means of access for trucks to come in and out of. Then a dumpster is to be relocated from the center portion of the property to the south side to allow for a safer pick up point.

Mr. Bennett made a motion to approve 19-BZA-04 MULLET, Marlin & Erma – A request for a Special Use to allow a 60x82 commercial addition to an existing commercial structure for shipping and an additional 100x200 commercial building which will be used for production and warehouse, located at: 4463 Beech Rd., Nappanee, IN 46550 Parcel ID 50-44-08-000-018-001-005 with the following stipulations:

1. **Commercial Design Release**
2. **Combination of new tract with parcel 50-44-08-000-018-001-005**
3. **No new linear footage in access (restricting it to 250')**
4. **Meeting State Department of Health's requirements**
5. **Meet development standards of the A-1 zone**
6. **Hours of operation 5am to 3pm Monday thru Friday**
7. **55 employees**

Seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

2018 Marshall County Plan Commission/Board of Zoning Appeals Year-end Report

In 2018 new construction in Marshall County decreased to 749 permits from the 2017 total of 815 permits. Total estimated value of construction increased to $ 68,416,914 in 2018 versus $53,172,823 in 2017. Even with the slight dip in number of permits the valuation of those permits has raised yet again by 28%.

In 2016 the income for permits, contractor registration and fees totaled $94,981 compared to last years $78,610.

There was a total of 49 Board of Zoning Appeals cases heard, 11 Plan Commission cases heard, and nine new cases added to the 25 active violation cases.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

March 12, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, March 12, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Trent Bennett, Mark Wickizer and David Hostetler *(Alternate Member)*, Plan Director Ty Adley, Secretary Lori Lowry and interested parties. Member absent was James Berger.

The first item of business was the review of the minutes from the February 12, 2019, meeting. **Mr. Wickizer made a motion to approve the minutes as written, seconded by Mr. Bennett. Motion carried by acclamation.**

The third item of business was 19-BZA-05 BERG, Timothy & Barbara – A request for a Variance of Use to allow an existing campground which is named Lakeside Campground; located at 16999 12th Rd., Plymouth, IN Zoned L-1 West Twsp. Mr. & Mrs. Timothy Berg were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking this variance of use in light of observations reclassifying the once legal nonconforming use into illegal nonconforming use. The Campground has been in existence since the 1970's and has recently been challenged for conformity with Chapter 8: Nonconforming Structures, Lots, and Uses. Upon review and inspection of the property, it appears that the campground has evolved over the course of time from the time that zoning was adopted in Marshall County (first effective date July 1st, 1974) to today. Chapter 8, Section 060: nonconforming Uses of Structures, Land or Structures and Land in Combination indicates that…. Any lawful use of structures, land or structures and land in combination established prior to the effective date of this Ordinance or its subsequent amendments that is no longer a permitted use in the district where it is located shall be deemed a Legal Nonconforming Use. A legal nonconforming use may continue provided that it remains otherwise lawful, subject to the following conditions: B. No structure shall be constructed in connection with an existing legal non-conforming use of land. Over the course of time additional structures have been constructed or set on the property and structures are defined as: "A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 190 days. And accessory structure which his defined as: A use, building, or structure, the use of which is customarily, incidental and subordinate to the use of the primary building or primary use of the land on which the

accessory use, building, or structure is located. By way of example only, some typical accessory uses, buildings, and structures include: garages, carports, porches, decks, awnings, canopies, mini-barns, storage sheds, outdoor fireplaces, outdoor furnaces, children's playhouses, swings, game courts, fences, swimming pools, hot tubs, grain bins, grain dryers, and storage buildings. Some uses that shall not be considered accessory uses, buildings, or structures include mobile homes, manufactured homes, construction trailers, recreational vehicles, and semi-trailers." The property currently has open cases with the Plan Commission (for the fence and pending outcome, the campground), ISDH, and IDNR Division of Water.

The Plan Director's recommendation was as follows: Based on the information provided by the applicant, historical data, site visit and discussion with the Technical Review Committee (TRC), staff and the TRC would recommend approval of the Campground as a use provided that it meets the following conditions; Compliance and approval by state and local departments including but not limited to ISDH, IDNR, and MCHD. All new trailers including the most recent two meeting the setback requirements for the L-1 Lake District (30' from 10'/10% side, and 45' rear). One trailer is located on the lake side on the southwest corner of the property and the other is towards the center of the property. Permits must be applied for all associated structures or removed within given time frame established by BZA.

Mr. Berg has run this campground for 25 years and his father ran it 8 years prior. It was known as the G & G Campground prior to that. The Berg's weren't aware there were setbacks and guidelines to be followed. The purpose for tonight isn't to fight the board, but to abide by the request of the board. Their goal when they purchased the campground was to buy it and thin it out. The campground holds 28 lots and at this time there are 16. They would like to be able to replace existing units when needed and at that time make sure they meet the setback requirements.

When asked about the septic Mr. Berg stated that there is a septic on the grounds and the units closer to the water all have to be pumped. The drywells that were used a long time ago have been eliminated. There are some tanks in the ground and once the trailers come out they remove them. If the grey water or wastewater gets filled Mr. Berg pumps them and puts it into a septic on top of the hill. As far as the trailer that is close to the water Mr. Berg doesn't have a problem moving it back to meet the 45' requirement.

This campground is open from April 19th to October 19th providing for Friday through Sunday camping. There is no full-time camping allowed.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. William Bailey – Lives on Millpond – Lives in the area and keeps the campground really clean and no garbage.
2. Lou Snell – Next door neighbor to the west and is their summer home for 9 years. Couldn't find a better neighbor who keeps up their property.

3. ? Matheson – Lives on Millpond – President of the 4 Lakes Association. They have upgraded the property and kept in clean over the years. It's the finest in the region.
4. Christine Stinson – Health Department Administrator – Wanted to make the board aware of some of their concerns. There is no legal septic system. There are several barrels that are buried and have grey water in them that needs removed. Their records show that there are no known soil absorption fields. The IDEM water reports show there are high nitrates in their drinking water. When this happens the Health Department needs to be notified and the people on the property need to be notified. The Health Department hasn't been notified. ISDA has a report from an inspection that showed several deficiencies. One of them being the well is not 100' away from the septic tank. There was an area where water softener or washing machine discharges on the surface on the ground which also can't happen. The Health Department would like to work with Mr. Berg. It's her concern if there is room to meet the requirements for onsite sewage disposal. Currently the tanks that are pumped are dumped into the system at the bathhouse area and it goes into the septic system. The tank is a 1,500-gallon tank that gets service regularly. Ms. Stinson believes it's a drywell. Whatever is done will have to meet ISDH's approval. This case she would advocate a pump and haul system, because sometime in the future there will have to be public sewers around the lakes.
5. Lou Snell (Letter) – sent a positive recommendation for Lakeside Campground.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

When asked by the board if the Plan Director's recommendation states all government approvals, Mr. Adley said yes. Within Mr. Adley's recommendation it also states that permits be obtained for prior structures.

All of the trailers stay on the property all year around. Mr. Berg asked if we could just permit any new structures moving forward. Some of the structures that are now there were from people that are no longer there.

As far as permitting the property owner or the tenant can apply for a building permit.

The board could pursue all the decks, the most recent decks, the trailer in the SE corner, all the trailer's inside the 45' setback including any decks. It looks like there are currently 4 or 5 trailers within the 45' setback.

Mr. Berg would hate to have to tell these people they are no longer able to keep their trailers there. Doesn't have a problem with working forward. Can they be allowed to keep the existing trailers there and not replace them? The Berg's agreed that when someone leaves a new trailer/with new owner will not be allowed.

Mr. Bennett asked about the two structures mentioned in the recommendation that has nothing to do with the 45' setback. *(Staff discussion couldn't hear to translate) Mr.* Adley commented that the replacement one can either be required or not required to move depending on the

board's wishes.

After the public hearing had closed Ms. Hoshaw requested to speak and re-open public hearing and request was not granted.

The long-term plan has been to lessen the number of campers over the years. They started with 28 and are now down to 16. The trailer that was replaced was allowed due to the ownership not changing. After being asked if trailers are removed, they won't replace them Mr. Berg commented "yes, pretty much".

Mr. Wickizer made a motion to approve 19-BZA-05 BERG, Timothy & Barbara – A request for a Variance of Use to allow an existing campground which is named Lakeside Campground; located at 16999 12th Rd., Plymouth, IN Zoned L-1 West Twsp. with the following conditions:

1. **Must meet TRC recommendations** - Compliance and approval by state and local departments including but not limited to ISDH, IDNR, and MCHD. All new trailers including the most recent two meeting the setback requirements for the L-1 Lake District (30' from 10'/10% side, and 45' rear). One trailer is located on the lake side on the southwest corner of the property and the other is towards the center of the property. ~~Permits must be applied for all associated structures or removed within given time frame established by BZA.~~(See Item 2)
2. **Required to get permit for new structures including decks (going forward)**
3. **When existing trailers are moved, they need to meet current setback requirements**

Seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.

The fourth item of business was 19-BZA-06 BERG, Timothy & Barbara - A request for a Variance of Development Standard to reduce the ROW setback from the required 30' to 29' from the edge of the road and allow an adjustment of the fence standard height from 3' to 6', located at 16999 12th Rd., Plymouth, IN West Twsp., Zoned L-1. Mr. & Mrs. Berg were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking this variance of development standard due to the ordinance not being clear what the permissible limits are for a fence in his use. The Campground has been in existence since the 1970's and has recently been challenged for conformity with Chapter 8: Nonconforming Structures, Lots, and Uses. Upon review and inspection of the property, it appears that the campground has evolved over the course of time from the time that Zoning was adopted in Marshall County (first effective date July 1st, 1974) to today. Chapter 8, Section 060: Nonconforming Uses of Structures, Land, or Structures and Land in Combination indicates that ii. Any lawful use of structures, land, or structures and land in combination established prior to the effective date of this Ordinance or its subsequent amendments that is no longer a permitted use in the district where it is located shall be deemed a Legal Nonconforming Use. A legal nonconforming use may continue provided that it remains otherwise lawful, subject to the following conditions: B. No structure shall be constructed in connection with an existing legal nonconforming use of land. Over the course of time additional structures have been constructed or set on the property and

structures are defined as: "A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days." and accessory structure which is defined as: A use, building, or structure, the use of which is customarily incidental and subordinate to the use of the primary building or primary use of the land on which the accessory use, building, or structure is located. By way of example only, some typical accessory uses, buildings, and structures include: garages, carports, porches, decks, awnings, canopies, mini-barns, storage sheds, outdoor fireplaces, outdoor furnaces, children's playhouses, swings, game courts, fences, swimming pools, hot tubs, grain bins, grain dryers, and storage buildings. Some uses that shall not be considered accessory uses, buildings, or structures include mobile homes, manufactured homes, construction trailers, recreational vehicles, and semi-trailers." The property currently has open cases with the Plan Commission (for the fence and pending outcome, the campground), ISDH, and IDNR Division of Water.

Mr. Adley gave the following recommendation: Based on the information provided by the applicant, historical data, site visit and discussion with the Technical Review Committee (TRC), staff and the TRC would recommend approval of the fence as a use provided that it meets the following conditions; - The fence must be taken down by April 1st as previously discussed with the Plan Director - The fence be erected with the structural side facing inward. - The 6' wooden fence being permitted 45' from the edge of the road to 60' from BFE.

There is an active code case for the fence not being permitted before it being installed as well as the good side was installed facing in instead of correctly facing out.

The L-1 zoning requires the front yard and rear yard to be 3 ½ feet in height and 75% opaque where the side yard it's permitted to be 6' solid within the front and rear foundation of the house. With this type of lot there are different circumstances. This has been discussed at the Plan Commission with the majority of the conversation pointing to a variance.

The chain link fence currently runs from the road to the water. There were comments by the board that this fence is non-conforming, questions if it was allowed because it's 75% opaque but needs to be 45' from the water. There is a chain link fence that was installed prior to the current neighbors to the east. A survey hasn't been completed to verify whose property the fence is on, said Mr. Berg.

Mr. Berg proposed 29' from the road and Mr. Adley proposed 45' from the road and 60' from BF. The current fence is longer than what was proposed by Mr. Adley.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Hostetler. Motion carried by acclamation.

1. Lori Hoshaw – 16945 12th Road – Property owner directly to the east. The chain link fence is there's as it was installed by the previous owners. The fence is there for security reasons. There is privacy fencing between the two properties and also privacy fencing installed between the owner to the west as well. To her knowledge the fence has never been permitted and doesn't believe the installation meets the ordinance. The fence is turned the wrong way. Believes if it were them putting in a fence, they would be restricted even more so than what is there. They would only be allowed a 6' fence between their foundation lines as that's what's allowed in lake residential for home owners. Asking that they are required to meet the same regulations they are for this fence that has been put up illegally since July and is still there.
2. Lou Snell – Neighbor to the west – Letter in support of the request.

Ms. Hoshaw doesn't understand why she has to put up with a fence that was put up in retaliation. It's not a privacy fence for the homeowners themselves its there for campers they're for only 6 months on weekends. She can stand on her deck with the fence still there and can see the back deck of his house plus can see him open and close his back door. Allowing this never permitted fence…she would never get away with it. When asked if she even wants the fence Ms. Hoshaw's comment was… As long as it meets the guidelines and recommendations it's fine.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Berg presented photos of the reason why a privacy fence was installed. It's his belief that the property to the east is reducing their property values.

The board was shown a map showing Mr. Adley requesting a setback from the lake at 60' from the BFE rather than the required 45'. It was Mr. Adley's attempt to find the balance between what a single house would be permitted and the commercial use of the property.

Mr. Bennett made a motion to approve 19-BZA-06 BERG, Timothy & Barbara - A request for a Variance of Development Standard to reduce the ROW setback from the required 30' to 29' from the edge of the road and allow an adjustment of the fence standard height from 3' to 6', located at 16999 12th Rd., Plymouth, IN West Twps., Zoned L-1 with the stipulation the applicant follow

1. **Staff recommendation - The fence must be taken down by April 1st as previously discussed with the Plan Director. The fence be erected with the structural side facing inward. The 6' wooden fence being permitted 45' from the edge of the road to 60' from the Base Flood Elevation, seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.**

The fifth item of business was 19-BZA-07 SANDS, Matthew – A request for a Variance of Use to allow storage and wholesale sales of stone coated & painted metal trim in an existing building on the property; located at 130 19th Road, Bourbon, IN Tippecanoe Twsp., Zoned A-1. Mr. Matthew Sands was present to represent his request. Mr. Booker presented the findings of

fact.

The applicant is seeking to bring their roof manufacturing business to Marshall County and this is the first portion of the incremental process. The applicant is seeking to warehouse odds and ends to finish up different jobs within his existing barn. The barn is approximately 45x50' with a "U" shaped driveway, but per the applicant the driveway is often difficult to maneuver into with a truck and trailer.

Mr. Adley's recommendation is as follows: Based on the information provided the applicant is seeking to run something similar to a Home-Based Business, but the business is warehousing and wholesale, which is why a Variance of Use was more appropriate. Staff would recommend Approval with Conditions as indicated below. The Technical Review Committee met on March 1st to discuss the proposal and came to the conclusion of recommending approval with the condition that the business will not grow larger at this location. The Conditions recommended are as follows: - Employees not residing on the property are permitted subject to Board of Zoning Appeals conditions and approval - The size of on-site signs are limited to an aggregate area of eight (8) square feet. Onsite signs may only advertise goods or products sold on the property - Sufficient off -street parking shall be provided on the property to prevent customers from parking in County rights-of-way. - Outside storage of goods and equipment is permitted subject to Board of Zoning Appeals conditions and approval - Shall not occupy an area in excess of 2,250 square feet of gross area (Principle barn that is to be used for the business) - No further expansion would be permitted at this location, and would be encouraged to be located near to a state road and/or within a commercial/industrial zoned property.

This manufacturing business is based out of Canada and Mr. Sands is heading up the United States division. The plan is to start at his residence and hopefully within a couple of years move to a warehouse. Similar to the one just built in Argos. There will be no employees. Anyone that will be working will be independent contractors.

There will be some product at this site. It will primarily be used to support other companies when they run out of product as a last-minute need. All product will be kept inside the building.

The product is a stone coated metal roofing system that looks like tile or wood shakes. It is currently being made in Korea and shipped here. In the future they look to have all the equipment and make their own product here.

Currently working on a driveway that will allow drop off and pick up of material. There will be very little traffic. Most product is delivered directly to the companies. What is delivered will come on a common carrier like UPS freight etc. There won't be a dock just a forklift. The board made it clear that there was to be no loading and unloading with trucks on the road.

There are no business hours or someone there all the time. This is just to warehouse product and allow for occasional pickup when requested.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation. There being no one to speak for or against Mr. Bennett moved and Mr. Wickizer seconded the motion to close the public hearing. Motion carried by acclamation.

The existing barn that will be used for storage is also used for personal agricultural farm storage.

It was the applicants desire for this request to be temporary until the business grows a little and wish to move to a more suitable location.

Mr. Wickizer made a motion to approve 19-BZA-07 SANDS, Matthew – A request for a Variance of Use to allow storage and wholesale sales of stone coated & painted metal trim in an existing building on the property; located at 130 19th Road, Bourbon, IN Tippecanoe Twsp., Zoned A-1, with the following stipulation:

1. **Staff recommendation-** the business will
   not grow larger at this location. The Conditions recommended are as follows: - Employees not residing on the property are permitted subject to Board of Zoning Appeals conditions and approval - The size of on-site signs are limited to an aggregate area of eight (8) square feet. Onsite signs may only advertise goods or products sold on the property - Sufficient off -street parking shall be provided on the property to prevent customers from parking in County rights-of-way. - Outside storage of goods and equipment is permitted subject to Board of Zoning Appeals conditions and approval - Shall not occupy an area in excess of 2,250 square feet of gross area (Principle barn that is to be used for the business) - No further expansion would be permitted at this location, and would be encouraged to be located near to a state road and/or within a commercial/industrial zoned property.
2. **No employees**
3. **Monday through Friday 9-5**
4. **Wholesale only limited**
5. **Signage no more than 8 sq feet**
6. **No outside storage**
7. **This business only**

Seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.

The sixth item of business was 19-BZA-08 BORKHOLDER, O Lamar & Jolene – A request for a Special Use to allow a dog kennel, located on a new parcel to be split off 1070 5 B Road, Bremen, IN German Twsp., Zoned A-1. Mr. O Lamar Borkholder was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a kennel on a newly subdivided property.
The structure will be placed at the rear of the property adjacent to existing farm

fields. A kennel is defined as: 1. An establishment wherein any person engages in the business of boarding, breeding, buying, keeping, letting for hire, training for a fee, or selling three (3) or more dogs, cats, or other small domesticated pets; or 2. Any premises on which five (5) or more dogs, cats, and/or other small domesticated pets over four (4) months of age are kept.

Mr. Adley's recommendation is as follows: Based on the information provided staff would recommend approval of the proposed kennel. The Technical Review Committee met are March 1st to review the application and recommend approval provided that commercial use kennels are approved by ISDH which would include the septic system.

The dogs being raised and trained are hunting dogs. He currently has 6 dogs. Once the applicants move the same operation will be moved to this address. It won't be anything new that he's currently doing.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. Daniel Yoder – Neighbor to the southwest is in favor of the request.
2. Devon Miller – In favor
3. Elrose Peachey – Has been a neighbor for 30 years. Doesn't have a problem with the request.

Mr. Hostetler moved and Mr. Wickizer seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Wickizer made a motion to approve <u>19-BZA-08 BORKHOLDER, O Lamar & Jolene –</u> A request for a Special Use to allow a dog kennel, located on a new parcel to be split off 1070 5 B Road, Bremen, IN German Twsp., Zoned A-1 with the following stipulation:

1. **10 dogs**

Mr. Hostetler seconded the motion to approve the request. Motion carried with a voice vote 4-0.

The seventh item of business was <u>19-BZA-09 BORKHOLDER, O LAMAR & Jolene –</u> A request for a Variance of Development Standard to allow a dog kennel to be less than 600' away from a residence in which the applicant does not reside; located on a new parcel to be split off 1070 5 B Road., Bremen, IN German Twsp., Zoned A-1. Mr. O Lamar Borkholder was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a kennel on a new 5-acre parcel that is cut out of their 37-acre farm. The kennel will be on the property accompanied by a house and barn. The new dog kennel will be a 12x60' structure with 10 pens inside and 10 runs outside. The proposed kennel will be less than the required 600'.

Mr. Adley's recommendation is as follows: Based on the information provided staff would recommend approval of the proposed kennel provided that there is not objection by adjacent residential neighbors. The Technical Review Committee met are March 1st to review the application and recommend approval provided that commercial use kennels are approved by ISDH which would include the septic system.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. Devon Miller – In favor of his request.

Mr. Hostetler moved and Mr. Wickizer seconded the motion to close the public hearing.

Mr. Wickizer made a motion to approve 19-BZA-09 BORKHOLDER, O LAMAR & Jolene – A request for a Variance of Development Standard to allow a dog kennel to be less than 600' away from a residence in which the applicant does not reside; located on a new parcel to be split off 1070 5 B Road., Bremen, IN German Twsp., Zoned A-1, with the following stipulation:

1. **Shrubbery placed around the kennel to help as a sound barrier.**

Seconded by Mr. Wickizer. Motion carried with a voice vote 4-0.

The eighth item of business was 19-BZA-10 WEAVER, Donald & Vickie – A request for a Variance of Use to allow new purchaser of his small wood shop business to lease his workshop for two (2) years, located at: 8387 5 C Road, Plymouth, IN 50-43-17-000-013-000-005 German Twsp., Zoned A-1. Mr. & Mrs. Donald & Vickie Weaver along with their counsel, Anthony Wagoner, were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is wanting to sell their wood shop as a lease for 2 years. The property has had 2 permits pulled for the main barn over the last few years, BP-14-074 for a 48x64' pole barn and ILP 17-27274 for 24x48' addition.

Mr. Adley's recommendation is as follows: Based on the information provided and the Technical Review Committee discussion, staff recommends approval of the proposed business operating on the premises without the owner of the property taking part (which would no longer fall under a Home Based Workshop) with the following conditions: 2 year horizon from the approval of the Board of Zoning Appeals, and once time shall pass, the business shall cease from the subject property. Employees not residing on the property are permitted subject to Board of Zoning Appeals Conditions and approval. The size of onsite signs are limited to an aggregate area of 8 square feet. Onsite signs may only advertise goods or products sold on the property. Sufficient off-street parking shall be provided on the property to prevent customers from parking on County rights – of – way. Outside storage of goods and equipment is permitted subject to Board of Zoning Appeals conditions and approval. No new structures of additions as it pertains to the business on the property.

In 2002 the Weaver's didn't know they needed permission to conduct a business. Mrs. Weaver has been running the business while Mr. Weaver works outside the home. At this time, they

wish to sell the business to a company that has a business in Elkhart company. It's their desire to keep this facility operating for a short period of time. The proposed lease will be a one-year term with an option to go month to month with a period not longer than 12 months which would be two years. After the two-year time frame is up they are not sure what will happen. The company that purchased the business FM Holdings LLC/Cross Cut Woodshop. It is not a retail shop they only do work with the RV industry. The plan is to keep the homestead at this time.

The original business started in 2002 in the old hog shed. In 2013 they built the other building and started working there. There are currently 4 employees. The hours are 6am to 2:30 pm Monday through Friday, occasional Saturdays. The owner's said there is adequate parking. Material is received by one semi per week. Shipping is done with a 20' box truck.

Mr. Hostetler moved and Mr. Wickizer seconded the motion to close the public hearing. Motion carried by acclamation. There being no one to speak for or against Mr. Hostetler moved and Mr. Wickizer seconded the motion to close the public hearing.

Mr. Wickizer made a motion to approve 19-BZA-10 WEAVER, Donald & Vickie – A request for a Variance of Use to allow new purchaser of his small wood shop business to lease his workshop for two (2) years, located at: 8387 5 C Road, Plymouth, IN 50-43-17-000-013-000-005 German Twsp., Zoned A-1 with the stipulation as follows:

1. **Staff Recommendation:** ***2-year horizon from the approval of the Board of Zoning Appeals, and once time shall pass, the business shall cease from the subject property. Employees not residing on the property are permitted subject to Board of Zoning Appeals Conditions and approval. The size of onsite signs are limited to an aggregate area of 8 square feet. Onsite signs may only advertise goods or products sold on the property. Sufficient off-street parking shall be provided on the property to prevent customers from parking on County rights – of – way.*** ~~***Outside storage of goods and equipment is permitted subject to Board of Zoning Appeals conditions and approval.***~~ ***No new structures of additions as it pertains to the business on the property.***
2. **4 employees**
3. **Monday – Saturday 6:00 am to 2:30pm**
4. **One sign**
5. **Shipping (one semi per week) and box truck delivery**

Seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.

The ninth item of business was 19-BZA-11 BURR OAK RESOURCE DEVELOPMENT INC -A request for a Variance of Use to allow a material recovery facility of excavation of fill; located at SR 17, 50-21-04-000-070-000-013, Union Twsp, Zoned A-1. Mr. George Hopple was present to represent his request. Mr. Adley presented the findings of fact.

The property sits back off of the road down an approximate 1,200' one lane driveway. Mr. Hopple owns a second piece of property that is located within the two-mile jurisdiction of Culver and is under a violation of the Zoning Ordinance where the Town has taken code enforcement action. Mr. Hopple is seeking to

relocate his excavation and material recovery business completely to the subject property. He intends to use the property for the crushing of concrete, asphalt, shingles, turning of yard waste into usable material. His proposed use will have to be approved by the Board of Zoning Appeals and will be subject to any and all conditions placed on the operation by the Board. Mr. Hopple indicates that the property was previously mined for rock for the railbeds and was later used as a dump/ trash facility.

Mr. Adley's recommendation is as follows:
Based on the information submitted and review with the Technical Review Committee (TRC), staff and TRC recommend approval of the proposed Material Recovery Facility with the following conditions: - ISDH items have been addressed and has received associated approvals. - Business hours are limited to 8a-6p Monday through Saturday provided that the facility is staffed. - Materials that are brought to the property are properly tested to ensure that no harmful products, chemicals, or by-products are released into the environment. - equipment that is on the property will be operational for the business and facility will not become a storage site for junk and debris. Industrial Standards: 1. Smoke and Particulate Matter No use on a property shall release fly ash, dust, smoke, or any other type of particulate matter which violates the air quality standards established by the Indiana Department of Environmental Management. 2. Electrical Disturbance No use on a property shall cause electrical disturbance adversely affecting the operation of radios, televisions or any other equipment on any other lot in the vicinity. All applicable regulations of the Federal Aviation Administration shall apply to all operations which may adversely affect the navigation or control of aircraft. 3. Fire and Explosive Hazards The storage, utilization, and/or manufacture of all flammable and/or explosive materials shall conform to the applicable requirements of the Indiana Department of Fire and Building Services and the prescribed standards of the National Fire Protection Association. Firefighting equipment and prevention measures shall be subject to the approval of the applicable Fire Department and shall be readily available and apparent when any activity involving the handling and storage of flammable or explosive materials is conducted. 4. Noise No use on a property shall create an objectionable production or operational noise, or combination of noises, detectable at the boundary line of any residential or commercial zoning district. 5. Odor No use on a property shall emit any objectionable odor, or combination of odors, that is detectable at the boundary line of any residential or commercial zoning district. 6. Vibration No use on a property shall cause any objectionable vibrations or concussions that are detectable without the aid of instruments at the property lines of the lot on which the use is located. 7. Glare No use on a property shall produce any glare that is detectable at the property lines of the lot on which the use is located. All outdoor lighting shall be exempt from these Industrial Standards, but shall comply with the Outdoor Lighting Standards section of this Article. 8. Noxious or Toxic Materials No use on a property shall accumulate or discharge outside of the building(s) in which production or materials storage occurs any materials

generally known to be toxic or noxious. Such uses shall also comply with all applicable regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management. 9. Waste Materials No use on a property shall accumulate within in the lot, or discharge beyond the lot lines any waste matter in violation of the applicable standards and regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management. 10. Water Pollutants No use on a property shall discharge any material, whether liquid or solid, into public waters without any required approvals of the Marshall County Board of Health, Indiana State Board of Health, Indiana Department of Environmental Management, Indiana Department of Natural Resources, the Indiana Stream Pollution Control Board. - Facility shall be open to periodic inspection by Marshall County Zoning Administrator.

It's Mr. Hopple's intention to move the recycling done with concrete, brick and block at the other property. Has owned the property for twelve years. Intends on finishing the grinding on the Culver property. After than all grinding is to be done at this property.

Mr. Bennett grew up in the area and remembers there being junk, garbage and recycling. Believes in ceased operating in 1984 and went to tax sale. All this was done prior to the state requiring liners.

When asked if Mr. Hopple could meet the requirements, he said that he doesn't see anything that would be a problem.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Hostetler. Motion carried by acclamation.

1. William Bailey – Millpond – Has a tree service and disposes at said property. Landfills don't wan't this type of waste. It's a good thing.
2. Amy Jones – 19086 15th Rd. – Lives near the property. Known property to be trespassed. *(Additional comments couldn't hear)*
3. Mike Delp – Marshall County Commissioner – Wants to make sure that the Burr Oak residents and neighbors are protected for ground water.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Hostetler. Motion carried by acclamation.

Mr. Hopple has a low speed grinder and an excavator. Concrete will be held until there is enough to contract out to be crushed. Been in contact with a contractor from Hanna. Most contractors won't touch a job for less than 10,000 ton. He's willing to do smaller amounts. This type of work is only done while the machine is there. Asphalt is usually ran a couple times per month. Brick and block would be 2-5 days per month. There is a pond there that can access water to help keep the dust down when grinding.

There will be no scrapping, building materials, and tires. The brush sits for 6 months to a year to dry out and then will be processed. It will be turned in smaller quantities to keep the smell down.

Mr. Adley requested that the board add to his recommendation that the Plan Director and/or representative can inspect the property at any time.

This request was originally submitted to the Plan Commission for a re-zoning from A-1 to I-2. The board's recommendation was denial and the County Commissioner's upheld the recommendation. Their request was that Mr. Hopple re-apply to the BZA as a Variance of Use.

The board asked if Mr. Hopple didn't own the property if this variance follows the property or just the owner. Mr. Adley was sure it's followed the property. If they were wanting it to be different, they should state it in their motion.

Mr. Wickizer made a motion to approve <u>19-BZA-11 BURR OAK RESOURCE DEVELOPMENT INC -</u>A request for a Variance of Use to allow a material recovery facility of excavation of fill; located at SR 17, 50-21-04-000-070-000-013, Union Twsp, Zoned A-1 with the following stipulations:

1. ***ISDH items have been addressed and has received associated approvals. - Business hours are limited to 8a-6p Monday through Saturday provided that the facility is staffed. -Materials that are brought to the property are properly tested to ensure that no harmful products, chemicals, or by-products are released into the environment. - equipment that is on the property will be operational for the business and facility will not become a storage site for junk and debris. Industrial Standards: 1. Smoke and Particulate Matter No use on a property shall release fly ash, dust, smoke, or any other type of particulate matter which violates the air quality standards established by the Indiana Department of Environmental Management. 2. Electrical Disturbance No use on a property shall cause electrical disturbance adversely affecting the operation of radios, televisions or any other equipment on any other lot in the vicinity. All applicable regulations of the Federal Aviation Administration shall apply to all operations which may adversely affect the navigation or control of aircraft. 3. Fire and Explosive Hazards The storage, utilization, and/or manufacture of all flammable and/or explosive materials shall conform to the applicable requirements of the Indiana Department of Fire and Building Services and the prescribed standards of the National Fire Protection Association. Firefighting equipment and prevention measures shall be subject to the approval of the applicable Fire Department and shall be readily available and apparent when any activity involving the handling and storage of flammable or explosive materials is conducted. 4. Noise No use on a property shall create an objectionable production or operational noise, or combination of noises, detectable at the boundary line of any residential or commercial zoning district. 5. Odor No use on a property shall emit any objectionable odor, or combination of odors, that is detectable at the boundary line of any residential or commercial zoning district. 6. Vibration No use on a property shall cause any objectionable vibrations or concussions that are detectable without the aid of instruments at the property lines of the lot on which the use is located. 7. Glare No***

use on a property shall produce any glare that is detectable at the property lines of the lot on which the use is located. All outdoor lighting shall be exempt from these Industrial Standards, but shall comply with the Outdoor Lighting Standards section of this Article. 8. Noxious or Toxic Materials No use on a property shall accumulate or discharge outside of the building(s) in which production or materials storage occurs any materials generally known to be toxic or noxious. Such uses shall also comply with all applicable regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management. 9. Waste Materials No use on a property shall accumulate within in the lot, or discharge beyond the lot lines any waste matter in violation of the applicable standards and regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management. 10. Water Pollutants No use on a property shall discharge any material, whether liquid or solid, into public waters without any required approvals of the Marshall County Board of Health, Indiana State Board of Health, Indiana Department of Environmental Management, Indiana Department of Natural Resources, the Indiana Stream Pollution Control Board. - Facility shall be open to periodic inspection by Marshall County Zoning Administrator.

2. **Allows the Plan Director and/or any representative to inspect the property.**
3. **Asphalt and concrete crushing only 2-5 days per month (on average) and add water when crushing.**
4. **No building materials, no steel and no tires.**
5. **This variance is for Mr. Hopple only. A new owner would have to re-apply.**

Seconded by Mr. Bennett. Motion carried with a voice vote 4-0.

The tenth item of business was 19-BZA-12 COOPER, Brent & Lorie and Border, Robert & Zada – A request for a Variance of Use to construct a facility on the subject property which will serve as a conference and retreat center, chapel, and also conduct limited counseling services, located on SR 10, Tippecanoe, IN 46570, Parcel No. 50-23-11-000-002-000-012, Tippecanoe Twsp., Zoned A-1. Mr. & Mrs. Brent & Lorie Cooper and their attorney, Mr. Derek Jones was present to represent their request. Mr. Adley presented the findings of fact.

The subject parcel is an estimated 80 acres with a County Ditch running through the middle of the parcel. The applicants are seeking to develop a small portion of the Northwest corner of the parcel for the conference, retreat, chapel, and counseling center. The Cooper's had previously sought approval of a similar business a few miles away, but was ultimately denied originally based on concern of "the area could not handle the increased traffic, it would change the general character of the agricultural neighborhood, a concern over the sale of alcoholic beverages, and the general public health resulting from increased traffic and garbage."

The staff recommendation is as follows: Based on the information provided staff would recommend approval of the proposed center provided that the following are addressed. – two lane access from SR 10 to parking lot. ADA access requirements to be met – enough parking to accommodate the uses – Business hours to not end later than 8pm Sunday through Thursday and 11pm on Friday and Saturday – Dumpsters be screened in – Property be well maintained a

free of trash and debris. The Technical Review Committee convened and recommended approval contingent on approval by ISDH approval.

Robert & Zada Border are the parents of Mrs. Lorie Cooper. Once there is an approval of the request there will be a transfer of ownership to the Coopers.

This area is a very rural area and the Cooper's own approximately 200 acres. Area neighbors have also shown their support of the request. The previous request was on a property they didn't own and had existing structures. This request is ground that the Cooper's own and they will invest a considerable amount of money to make this happen. This is a Christian based facility which sets this facility apart from any other retreat or conference center. It's driven towards family, marriages, with a Christian foundation.

The Cooper's live on the property adjacent to the property in discussion. After reading the Plan Director's recommendation they would like to add an hour on the back end of the hours of operation, but would be happy to take the recommendation with approval of this request. 9-12 pm is their request.

When asked about INDOT permits for the driveway Mr. Cooper said that after talking with INDOT they said that as long as the driveway is not changed or paved they will not need a permit.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Hostetler. Motion carried by acclamation.

1. Mike Delp – Marshall County Commissioner – Thinks this is a great location. It will be off a state highway and it's isolated and should have an issue with neighbors. They are wanting to help their community by building families and marriages and helping children he was in full support of the request.
2. Al Eisenhour – Lincoln Hwy – In support of the request *(difficult to hear)*
3. Ralph Booker – 9110 Suter Rd. – Will not be affected. They're being honest in what they are proposing. Doesn't believe it's much different than some of the other event centers than have been approved.
4. Chad Bailey – Fir Rd. – In favor of the request and believes that extending the hours of operation shouldn't pose a problem.
5. Brad Stackhouse – Operates the farm at this location. As far as the farming standpoint it shouldn't be an issue. Recalled the last hearing when the board asked them why they weren't putting the request on there own property and they have done it. Doesn't see a problem with the request.
6. Anette Ray – In favor of the request.
7. Greg Hollar – In favor. Has needed this service in the past and sees the importance. Extension of time shouldn't affect anything.
8. Fred Westaver – Heartland Bourbon Church – This is not just a business it's developing a community of relationship. In favor.
9. Shelly Marsilliano – No affected by the request. Believes this is a good investment into our community.

10. Eugene Cooper – Michigan Rd., Argos – With the changes in families and people over the years believes this will be a good addition to the community.
11. John Jennings – Letter – In favor.
12. Gary Teal – In favor.
13. Kip Edmonds – In favor
14. Michael Hammond – In favor
15. Melanie Overmyer – 17 B Tr., In favor

Mr. Wickizer seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Gustafson commented that he commends the Cooper's for their effort and is happy with their request.

Mr. Wickizer made a motion to approve19-BZA-12 COOPER, Brent & Lorie and Border, Robert & Zada – A request for a Variance of Use to construct a facility on the subject property which will serve as a conference and retreat center, chapel, and also conduct limited counseling services, located on SR 10, Tippecanoe, IN 46570, Parcel No. 50-23-11-000-002-000-012, Tippecanoe Twsp., Zoned A-1 with the following stipulations:

1. **Staff Recommendations**
   two lane access from SR 10 to parking lot. ADA access requirements to be met – enough parking to accommodate the uses – Business hours to not end later than 8pm Sunday through Thursday and ~~11pm~~ on Friday and Saturday – Dumpsters be screened in – Property be well maintained and free of trash and debris. The Technical Review Committee convened and recommended approval contingent on approval by ISDH approval.
2. **With the exceptions of hours Friday and Saturday to midnight**
3. **Mission statement**
4. **Construction Design Release**

Seconded by Mr. Bennett. Motion carried with a voice vote 4-0.

The eleventh item of business was 19-BZA-13 MARSHALL COUNTY MEMBERSHIP CORPORATION - A request for a Variance of Development Standard to allow a on premise digital sign 8'x4' as an entry sign, located at parcel No. 50-41-27-402-340-000-017 Lot 0129, Plymouth, IN Zoned A-1, West Twsp.

As per the request of the applicant, Mr. Mark Roetering, requested to table the request until April 2019.

April BZA meeting date rescheduled

Due to the audio visual being changed over in the Commissioner's Room the room is unavailable for the first two weeks in April. Therefore, **Mr. Wickizer moved and Mr. Bennett seconded the motion to move the BZA meeting date to April 16, 2019. Motion carried by acclamation.**

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

April 16, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, February 16, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, Mark Wickizer and Matt Miller, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the March 12, 2019, meeting. **Mr. Wickizer made a motion to approve the minutes as amended, seconded by Mr. Bennett. Motion carried by acclamation.**

The second item of business was 19-BZA-13 MARSHALL COUNTY MEMBERSHIP CORPORATION - A tabled request for a Variance of Development Standard to allow a 25' entrance sign that is 91 sq ft and 5' from the south property line, located at parcel No. 50-41-27-402-340-000-017 Lot 0129, Plymouth, IN Zoned A-1, West Twsp. Mr. Mark Roettering was present to represent his request. Mr. Adley presented the findings of fact.

The Campground previously had an entrance sign located at the intersection of Redwood Road and US 30, but per Mr. Rotering (General Manager) said the windstorm at the beginning of the year took it down. They are now looking to replace it with an 8x4' digital sign. The Zoning Ordinance permits Electronic Message Signs within Commercial, Industrial, and PUD districts with conditions pending on whether the sign will have static, motion, or video messages.

The staff recommendation is as follows: The Campground has revised their application to put up a 25' tall 91 sq.ft. lighted double-sided sign. The proposed sign exceeds the design requirements found in the development standards. Staff would recommend approval of the revised proposed sign of 25' in height and not to exceed 91 sq.ft.

Due to the grade of the ground and to get the best visibility it made more sense for the sign to be taller and closer to the property line. The previous sign used to be on the inside of the fence and the current request is to install it on the south side of the fence.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation.

1. Keith Stack – 7934 Union Rd. Donaldson - Is in favor of the request.

Mr. Wickizer moved and Mr. Miller seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Wickizer moved to approve 19-BZA-13 MARSHALL COUNTY MEMBERSHIP CORPORATION - A tabled request for a Variance of Development Standard to allow a 25' entrance sign that is 91 sq ft and 5' from the south property line, located at parcel No. 50-41-27-402-340-000-017 Lot 0129, Plymouth, IN Zoned A-1, West Twsp. Seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The third item of business was 19-BZA-14 HENDRICKS, Corky - A request for a Variance of Developmental Standard from the 1:3 width to depth ratio to allow an approximate 320'x1900' parcel to be split off a 55.92-acre parcel, located at: 4747 Filbert Tr., German Twsp., Zoned A-1. Mr. Corky Hendricks was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has recently gone through an auction of his property and two sections (parcels 1 and 2) were purchased. The applicant is able to split his 55.9 acre parcel administratively 3 times prior to requiring a subdivision plat. Parcel's 5 and 6 are going to remain as the residual parcels, and parcels 3 and 4 are splits 1 and 2 respectively. This leaves the splitting of parcels 1 and 2 as splits 3 and 4 respectively which would exceed the property's permitted split count. Since parcels 1 and 2 are being purchased by one individual they could be combined together in order to meet the split count threshold. The proposed parcel would be 320'x1900' approximately.

Staff recommendation was as follows: Staff met with the Technical Review Committee on 4/5/2019 and both parties agreed to recommend approval of the proposal.

Lot's 1 & 2 went to the same buyer and meets the split count threshold, but because of its length it exceeds the 1:3 width to depth ratio. Lots 3 and 4 went to different buyers and lots 5 & 6 didn't sell.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. Brad Stackhouse – 6808 9 B Rd. – Corky and Brad came into the Plan Commission prior to the auction to determine what would be the best course of action. Because of the lane being so long this split seemed to be the best alternative. They hoped that 5 & 6 would sell, but it didn't.

Mr. Wickizer moved and Mr. Miller seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Bennett moved to approve 19-BZA-14 HENDRICKS, Corky - A request for a Variance of Developmental Standard from the 1:3 width to depth ratio to allow an approximate 320'x1900' parcel to be split off a 55.92-acre parcel, located at: 4747 Filbert Tr., German Twsp., Zoned A-1 with staff recommendation, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fourth item of business was 19-BZA-15 HUIZINGA TRUST LLC - A request for a Variance of Use to allow commercial truck repair and sales; located at: 20860 Lincoln Hwy., Plymouth, IN, (Parcel No's 50-41-30-000-126-000-017 & 50-41-30-000-021-000-017) West Twsp., Zoned C-2. Mr. Mike Faylor and Mr. Tim Kamps were present to represent their request. Mr. Adley presented the findings of fact.

The applicant has a non-conforming use on the property and was brought in on violation. The applicant is seeking to operate as a commercial truck repair and dealership similar to that of an automotive repair shop/automotive dealership, except the size and scale of the inventory is significantly larger.

The staff report is as follows: Staff met with the Technical Review Committee on 4/5/2019 and agreed to recommend approval of the proposal provided that the property be kept clean and there be no burning on the property.

Mr. Faylor presented pictures and correspondence from neighboring property owners to the board.

Currently trucks are being repaired onsite. Plus, parts are also being re-sold. They are looking at putting up a fence approximately 230'x110' on the south, east and west side. The north side is to have trucks lined up which will screen most everything. The fence will be 8' in height.

When all trucks are brought onto the property all the fluids are drained inside the building. The neighbor to the east asked if he could store a couple vehicles on this property. Mr. Faylor didn't mind as long as it was kept neat.

Hours of operation are 8-5 Monday through Friday with occasional Saturday business by appointment only.

On the northeast side of the property there was a burn pile. Mr. Faylor stated that it was there when they purchased the property.

Currently there are five employees. In the future they hope to expand. Parking is sufficient.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Terry Borggren – 10268 Carriage Ct. - Is representing his mother that lives on the north side of US 30. Didn't want the location to turn out like the one in town. Has a concern with the parts that are currently located in the right of way and property values.

Questioned whether they were painting on the property. Mr. Faylor responded saying no they are not painting onsite.

2. Arlene Stack – 7772 W. County Line Rd. – Owns the property on the north side of US 30. Driving by it every day is an eyesore. Has a big concern about contaminates? Doesn't understand why there wouldn't be a fence on the north side.
3. Keith Stack – 7934 W. County Line Rd. – Believes it is an eyesore. Would like the parts stored inside a fence. Questioned whether this use would be allowed on the north side of US 30 when those properties were joined with parcels on the southside when there was no US 30. The board responded saying no. The owner on the north side of US 30 would have to request the same type of hearing and they would be notified.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

Mr. Faylor restated to the board that all equipment is brought inside the building and all fluids are removed and disposed of properly.

In response to previous concerns the board asked how Mr. Faylor would keep the property neat and orderly. The existing burn pile was a concern that the owner's agreed to clean it up. The other concern about all the parts being stored outside the board asked if they would consider completely fencing in an area on the east side of the property and moving the trucks on the west side of the property. The owners didn't have a problem with the board's request to completely fence in an area on the east side of the property.

The storage container on the property was discussed with a reminder that they are not allowed by the Marshall County Zoning Ordinance. The board agreed to allow this one shipping container as long as it was stored inside the fenced in area.

The businesses' future is to expand from concrete trucks to excavating equipment and dump trucks.

The proposed fence will be 230' x 130'. The proposed fence will be placed on the north, south, and west. The east side currently has a fence that this new fence will butt up to.

Mr. Wickizer made a motion to approve <u>19-BZA-15 HUIZINGA TRUST LLC -</u> A request for a Variance of Use to allow commercial truck repair and sales; located at: 20860 Lincoln Hwy., Plymouth, IN, (Parcel No's 50-41-30-000-126-000-017 & 50-41-30-000-021-000-017) West Twsp., Zoned C-2 with the following stipulations:

1. **Hours of operation 8-5 Monday – Saturday**
2. **Number of employees up to 12**
3. **Privacy fence as submitted to the Plan Commission Office**
4. **No burning**
5. **Must meet regulations of hazardous material disposal which includes fuels, oils and coolants**
6. **Proper tire disposal**
7. **No painting**

8. **County inspections (by Plan Commission staff) from time to time and will notify someone at the site prior to inspection**

Seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fifth item of business was 19-BZA-16 - MICRO FARM PROPERTIES LLC - A request for a Special Use to allow a 100' communication tower to provide internet service in the area; located at: 3885 E. County Line Rd., Nappanee, IN Zoned A-1. Mr. Loren Graber was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a communication on the west side (rear) of the greenhouse. The applicant is wanting the tower constructed in order to boost internet service.

The staff recommendation is as follows: Staff met with the Technical Review Committee and agreed to recommend approval of the proposed 100' communications tower.

Applicant wasn't present. **Mr. Bennett made a motion to table this request until May, seconded by Mr. Berger. Motion carried by acclamation.**

The sixth item of business was 19-BZA-17 LAVINE, Vivian - A request for a Variance of Use to allow an existing automotive restoration business and the addition of a new structure to house cars and storage of parts; located at: 1349 Beech Rd., Nappanee, IN German Twsp., Zoned A-1. Ms. Vivian Lavine was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has been operating an automotive storage business off of his property and recently came in for a building permit to construct a 50x50' addition at the rear of his property in order to store cars and parts for the different projects. The property is approximately 1.5 acres and with the new development, the impervious surface coverage will be roughly .72 acres.

The staff recommendation is as follows: Staff and the Technical Review Committee met on 4/5/2019 and agreed to recommend approval of the proposed use with the conditions that the applicant locate the septic system and address any impervious coverage concerns that the Surveyor or Plan Director may have.

The business is an antique automotive repair shop. The location was originally started by the Stoneburner's, but was grandfathered to the LaVine's. They are currently running out of storage and want to keep everything stored inside.

The current impervious area with the new structure will be over 50% of the area of the parcel. Even though the Lavine's currently own the properties around them it is a concern of where the water will flow. The Plan Director and County Surveyor will take a look at this concern before moving forward with permit.

There are currently two septic systems on the property and they are located in the rear yard. One for the house and the other for the business.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Bennett made a motion to approve 19-BZA-17 LAVINE, Vivian - A request for a Variance of Use to allow an existing automotive restoration business and the addition of a new structure to house cars and storage of parts; located at: 1349 Beech Rd., Nappanee, IN German Twsp., Zoned A-1 along with staff recommendations, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The seventh item of business was 19-BZA-18 CREIGHBAUM, Nick & Debra - A request for a Variance of Developmental Standard to allow a 6' solid fence in the front yard; located at 17191 Tomahawk Trl., Plymouth, West Twsp., Zoned L-1. Mr. & Mrs. Nick Creighbaum were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 6' wood fence in the front, side, and rear yards. The side yard is permitted to be up to 6' in height, but the front and rear yards of the L-1 zoned property require that a fence within these respective yards be no higher than 3.5' and 75% opaque. The front (roadside) of the property is unique in that the foundation extends uniquely towards the road in order to create a drive-under garage.

The staff recommendation is as follows: Staff met with the Technical Review Committee on 4/5/2019 and agreed to recommend approval of the proposal provided that there is considerable justification for the rear yard (lakeside) extension of the fence as well as locating their septic system.

When asked if the proposed fence will prevent visibility from neighbors. Mr. Creighbaum explained due to the fence being behind the garage it shouldn't prevent any visibility problems.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation.

1. Mike & Mary Flores – 17199 Tomahawk Tr. – Next door neighbor south of applicant. Believes the proposed fence will prevent them from the views from the lake.

   The applicants are installing the rear yard fence as a chain link fence and the front and side yard fence is to be a 6' solid fence.

2. Mike Polstra – 17190 Tomahawk Tr. – Lives across the street from the Flores family. The 6' fence will totally block their view of the lake.

Mr. Bennett moved and Mr. Wickizer seconded the motion to close the public hearing, motion carried by acclamation.

After discussion the board asked if the applicants would be willing to move the rear yard section back (towards the road) two sections (16') of fence and Mr. Creighbaum agreed.

Mr. Bennett made a motion to approve 19-BZA-18 CREIGHBAUM, Nick & Debra - A request for a Variance of Developmental Standard to allow a 6' solid fence in the front yard; located at 17191 Tomahawk Trl., Plymouth, West Twsp., Zoned L-1 as drawn with the exception of bringing the chain link fence back from the rear foundation 16', seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The eighth item of business was 19-BZA-19 HARRELL, James - A request for a Variance of Developmental Standard to rebuild an attached carport 6' from the west property line, located at: 19865 6th Rd., Plymouth, IN 46563, Polk Twsp., Zoned A-1. Mr. Harrell was present to represent his request. Mr. Adley presented to findings of fact.

The applicant is seeking to construct a home addition (garage) that will be approximately 6' from the west property line. The structure will also extend an additional 3-4' closer to the roadway being approximately 15' from the right of-way line.

The staff recommendation is as follows: Staff met with the Technical Review Committee and both agreed to recommend approval of the proposed side yard setback reduction, with the condition that they apply for a variance for a front yard setback reduction.

Due to the ordinance allowing adjacent properties being used as one parcel the board all agreed that the side yard variance isn't necessary. However, the front yard will require an approval due to the fact that the new structure is less than the 50' that is required. There is actually only about 15'-20' from the road.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation.

1. James & Elizabeth Pondo - Supports the request and doesn't see there to be a negative effect.

Mr. Bennett moved and Mr. Wickizer seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Bennett made a motion to approve 19-BZA-19 HARRELL, James - A request for a Variance of Developmental Standard to rebuild an attached carport 6' from the west property line, located at: 19865 6th Rd., Plymouth, IN 46563, Polk Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

Due to the front yard setback reduction not being advertised nothing can be approved for the

front yard. It will have to be re-advertised and heard by the board.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

May 14, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, May 14, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, Mark Wickizer and Matt Miller, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the April 16, 2019, meeting. **Mr. Wickizer made a motion to approve the minutes as amended, seconded by Mr. Berger. Motion carried by acclamation.**

The second item of business was 19-BZA-16 - MICRO FARM PROPERTIES LLC - A request for a Special Use to allow a 100' communication tower to provide internet service in the area; located at: 3885 E. County Line Rd., Nappanee, IN Zoned A-1. Mr. & Mrs. Loren Graber were present to represent their request. Mr. Adley was present to represent his request. Mr. Adley presented the findings of fact.

The applicant was seeking to construct a communication on the west side (rear) of the greenhouse. The applicant is wanting the tower constructed in order to boost internet service.

The staff recommendation is as follows: Staff met with the Technical Review Committee and agreed to recommend approval of the proposed 100' communications tower.

Mr. Wickizer asked if the proposed tower could possibly be used by neighbors. Mr. Graber responded that it would be possible. Four way will be the internet provider.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Miller seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Bennett made a motion to approve 19-BZA-16 - MICRO FARM PROPERTIES LLC - A request for a Special Use to allow a 100' communication tower to provide internet service in the area; located at: 3885 E. County Line Rd., Nappanee, IN Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The third item of business was 19-BZA-20 TREAT, Gary - A request for a Variance of Developmental Standard to allow a 6' privacy fence that is 25' front the road that runs to the rear property line, located at: 16486 Sheryl Court, Plymouth, IN West Twsp., Zoned L-1(off water). Mr. Gary Treat & Jeanie were present to represent his request. Mr. Adley presented the findings of fact.

The applicant is located within a subdivision North of State Road 17 that is zoned L-1 Off-Water. The lake district permits a 6' opaque fence within the front and rear foundation lines of the house. extending into the front and rear yards, the fence is permit up to 3.5' and 75% opaque. The property is over 1,000' from the lake located on the opposite side of state road which has a tree-lined golf course. The property next door to the west is currently under zoning violation for junk and debris, which is a portion of the reason why the application is before the board.

The staff recommendation was as follows: Based on the information presented and the context of the situation, staff met with the technical review committee and the recommendation of approval with modifications were considered. The applicant would be permitted to build the 6' fence within the rear yard, but the fence would only be permitted to extend 1 panel or 8' whichever is less into the front yard.

The plan is to fence in a portion of the yard to enhance the visual aesthetics of the neighborhood. The adjacent neighbors do not keep up their yard and continue to have junk cars outside. As of today, the grass still hasn't been mowed.

The applicants continued to ask for the fence being setback at 25' off the road. Whenever they are in the front yard, they can see all the junk and hear everything that is going on. They would like to have a barrier from all of it.

Mr. Wickizer moved to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being no one to speak for or against Mr. Bennett moved and Mr. Berger seconded the motion to close the public hearing.

There has been a violation at the neighbors for multiple years and doesn't see it changing very soon. Pictures were shown to the board of their review.

Mr. Wickizer made a motion to approve 19-BZA-20 TREAT, Gary - A request for a Variance of Developmental Standard to allow a 6' privacy fence that is 25' front the road that runs to the rear property line, located at: 16486 Sheryl Court, Plymouth, IN West Twsp., Zoned L-1(off water), seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fourth item of business was 19-BZA-21 RASPOVICH - Keith & Donna - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 33' to allow the replacement of an existing that will now be a 12'x34' deck, located at: 20815 N. Lake Dr., Walkerton,IN 46574, Zoned L-1.Mr. & Mrs. Keith Raspovich were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to rebuild a deck that had previously extended 10' from the rear of the home which protruded into the setback 10'. The property owner is seeking to extend further into the setback to 12', which would be a 2' extension over what would have previously been in existence. The property owner appears to be extending further into the setback than the adjacent neighbors.

The staff recommendation was as follows: Based on the information presented and the context of the situation, staff met with the technical review committee and the recommendation of approval with modifications was considered. The applicant would be permitted to rebuild the deck up to 10', but not closer to the water, which would be a reduction from 45' to 35'.

The previously railing was white rod iron. The proposed railing will be white polyvinyl.

The next-door neighbor came in for a variance for a reduction in rear yard setback and their approved setback was 36’ from the required 45’.

Mr. Wickizer moved and Mr. Berger seconded the motion to open the public hearing. Motion carried by acclamation.

1. Michael McKenna 20825 N. Lake Dr. No objection to the plan and doesn’t see any negative impact to his property.
2. John Froyck 20835 N. Lake Dr. Doesn’t see any negative impact. In favor of the request.
3. Dennis Holland 20831 N. Lake Dr. In support of the request. Maintained the property very well. Any addition will be positive to the neighborhood.
4. Michael Hayes 20801 N. Lake Dr. In support of the request. Maintained the property.

Mr. Berger made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

Mr. Wickizer made a motion to approve 19-BZA-21 RASPOVICH - Keith & Donna - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 33' to allow the replacement of an existing that will now be a 12'x34' deck, located at: 20815 N. Lake Dr., Walkerton, IN 46574, Zoned L-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fifth item of business was 19-BZA-22 WRIGHT, Christopher - A request for a Variance of Developmental Standard to reduce the road setback for a fence from the required 30' to 14', the front yard fencing requirement allowing a 6' privacy fence as well as a rear yard privacy fence of 6' from the required 3 1/2' located at 8478 Chicago St., Bremen, IN Parcel No's 50-43-06-000- 323-000-005 and 50-43-06-000-324-000-005, German Twsp., Zoned L-1. Mr. & Mrs. Christopher Wright and the resident Brittany was present to represent their request. Mr. Adley presented the findings of fact.

The lake district permits a 6' opaque fence within the front and rear foundation lines of the house. extending into the front and rear yards, the fence is permit up to 3.5' and 75% opaque. The property is not adjacent to water and is zoned L-1 Off-Water.

The staff recommendation was as follows: Based on the information presented and the context of the situation, staff met with the technical review committee and the recommendation of approval with modifications was considered. The applicant would be permitted to build the 6' fence within the rear yard, but the fence would have to meet the front yard requirements.

Mr. Adley informed the board that the fence company originally called the township trustee asking if they required a fence permit and their answer was no. This being the reason they moved ahead without a permit.

Mr. Wright was apologetic to the board for the lack of knowing the requirements. The fencing was purchased through Lowes and Lowe's contracted the work out. Also wanted to make it clear that if the neighbor was unsatisfied with the fence, he wished he would have said something while it was being installed until waiting till it was done to report it.

The fence was installed 14' from the road to allow good visibility when backing out.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. Bill Tegler – 8431 Chicago St. Owns the firehouse property. No problem with the request. Keeps up his properties well and the fence improves the looks of the neighborhood.
2. Ray Beja – 8488 Chicago St. Is the neighboring property owner. If anyone would be affected by the positioning of the fence it would be them. The fence hasn't been a hindrance while backing out. Has lived in the house for 23 years. Has watched the community increase in values over the years. The fence was built well and is high quality materials. Doesn't see it as a detriment he sees it as an added value. Believes they tried to do it right and doesn't feel it was done maliciously at all. Requested the board grant the request.
3. Steve Harner – 8457 Carter St. Asks the board to keep with the ordinance rules. Said that it will cut back on his view of the lake.

*Brittany (property resident) stated that the only fence that would diminish his view from the lake would be on the Beja property. Mrs. Harner spoke up and said that it would limit the view from their rental house next to the applicant.

4. Sally Pittman – 3385 E. Shore — Has no problem with the request. Add's a lot of value to the property and neighborhood.
5. Jonathan Oswald – 3795 Lakeshore — Requests that the law be adhered to.
6. Graham – 8478 Chicago St. — Nice addition to the neighborhood.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

The owner has a toddler that runs and wants to have the area fenced in. Mr. Wright asked if they could change the front yard fence to a lattice fence. The board explained that the maximum height is 3 ½'.

The board believes the contractor should have been more vigilant of knowing the guidelines. If they knew to be registered in the county, they could have easily contacted the county for the rules.

A very big part of the discussion was if this were approved it would set a precedence.

Mr. Bennett made a motion to approve staff recommendation 19-BZA-22 WRIGHT, Christopher - A request for a Variance of Developmental Standard to allow the rear yard privacy fence of 6' from the required 3 1/2' while the front yard fence would need to be 3 ½ feet in height and 70% opaque, but they could keep the same foot print at 8478 Chicago St., Bremen, IN Parcel No's 50-43-06-000- 323-000-005 and 50-43-06-000-324-000-005, German Twsp., Zoned L-1.

The sixth item of business was 19-BZA-23 GLADIEUX, Jason & Fonda - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 20' to 13' in order to build a pole barn in line with the existing barn, located at; 8262 Chestnut Rd., Bourbon, Bourbon Twsp, Zoned A-1. Mr. Jason Gladieux was present to represent their request. Mr. Adley presented the findings of fact.

The owner currently has an existing shed at the corner of the property and they are looking to construct a new accessory structure the same distance from the property line. The applicant indicates that "need as much space as possible in front of the building to back in camper, boat, etc.".

The staff recommendation was as follows: Based on the information presented and the context of the situation, staff met with the technical review committee and the recommendation of approval.

The applicant would like to add a lean-to to the existing barn that would line up with an existing building that is adjacent to the proposed. It will be used for storage items and for areas of personal recreation (basketball hoop).

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation.

1. Walter Herschel 8220 Chestnut Rd. In favor of the request.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

Mr. Berger made a motion to approve 19-BZA-23 GLADIEUX, Jason & Fonda - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 20' to 13' in order to build a pole barn in line with the existing barn, located at; 8262 Chestnut Rd., Bourbon, Bourbon Twsp, Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The seventh item of business was 19-BZA-24 MILLER, Craig & Lisa - A request for a Variance of Development Standard to allow additional acreage to be added to a parcel that will not meet the required 1:3 width to depth ratio; located at 8450 County Line Rd., Plymouth, IN Zoned A-1. Mr. Craig Miller was present to represent his request. Mr. Adley presented the findings of fact.

The applicant owns an existing 94-acre tract and will be purchasing an additional 31 acres. The property shape will exceed the 1:3 width to depth ratio. The property is approximately 400' across and 4,500' in depth.

Based on the information presented and the context of the situation, staff met with the technical review committee and the recommendation of approval was considered. The applicant would be permitted to create the proposed lot provided that the property was combined under one legal description.

Mr. Miller explained that the title company didn't know why it would be necessary to make it all one parcel. Through discussion Mr. Adley explained that you cannot have a landlocked piece of property which would be the case if the properties wouldn't be combined. The only other option would be a 50' easement all the way back.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation.

1. Mary Hundt – Represents Ancilla and is in favor of the request.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Wickizer made a motion to approve **19-BZA-24 MILLER, Craig & Lisa - A request for a Variance of Development Standard to allow additional acreage to be added to a parcel that will not meet the required 1:3 width to depth ratio; located at 8450 County Line Rd., Plymouth, IN Zoned A-1 with the stipulation that the parcels be combined into one, seconded by Mr. Miller. Motion carried with a voice vote 5-0.**

The eighth item of business was 19-BZA-25 FREED, Kevin - A request for a Variance of Developmental Standard to reduce the ROW standard of 50' to 24' from the Road to allow an existing 24x24 garage, located at: 1442 Jute Rd., Bremen, IN Zoned A-1. Mr. Freed was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to finish the construction of a garage that will be located 24' from the edge of road. The applicant indicates that the property is "extremely sloped" with the septic system on the east side of the house.

Based on the information presented and the context of the situation, staff met with the technical review committee and the recommendation to table was considered. It was unclear to staff and TRC whether or not there would be alternative locations for the garage that would stick less into the setbacks.

Mr. Freed explained this location is the best location for the garage due to the sloping of the ground as well as the septic system.

The existing parcel is 40 acres the board questioned what the hardship could be that he couldn't find a location on the property that wouldn't require a variance.

The garage was built to allow the applicant a place to work on cars for family and friends. Mr. Freed expressed it's not a business he just helps them to maintain their vehicles at no cost. The board told Mr. Freed that if this becomes a business where he starts making money that he will need to come before the board for permission.

Several items about the construction of the garage were brought up.

Mr. Freed didn't obtain a permit prior to constructing the garage. He said that he just didn't think about it. Mr. Freed's father that owns the property was aware that he was building the garage without a permit as well.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. Randy Freed 1380 Jute Rd. - Didn't know there was a requirement to be so far away from the road. Knew he needed to build it in the location because of the sloping of the ground.
2. Jackie Overmyer – 1426 Jute Rd. – Lives next door to the petitioner. Said that are six adult children living in the house and knows they will also need help with their cars as well. He does good work. There is also a curve in the road that would make a different placement of the garage possibly dangerous.
3. Michael Overmyer – 1426 Jute Rd. – Is in favor of the request.
4. Theresa Klingerman – 1467 Jute Rd. – Was originally concerned if it were a business and the corner would be dangerous as well if there were a driveway near that.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

Mr. Bennett asked if the board approved the location would the existing structure meet code requirements. Mr. Adley stated that Mr. Freed would most likely have to have an engineered drawing of the structure to prove it meets all the requirements.

Mr. Bennett made a motion to deny the request 19-BZA-25 FREED, Kevin - A request for a Variance of Developmental Standard to reduce the ROW standard of 50' to 24' from the Road to allow an existing 24x24 garage, located at: 1442 Jute Rd., Bremen, IN Zoned A-1 on all three findings (General Welfare, Adjacent Property and Practical Difficulty), seconded by Mr. Miller. Motion carried with a voice vote to deny 5-0.

The ninth item of business was 19-BZA-26 BONTRAGER, Allen - A request for a Variance of Developmental Standard to allow one parcel to be split (chicken barn from the residence) while one of the parcels will not meet the 1:3 width to depth ratio, located at: 1061 19th Rd., Tippecanoe, IN Tippecanoe Twsp., Zoned A-1. Mr. Bontrager was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to put their poultry barn into an LLC which will require them to split it into pieces and with the new parcel being approx. 1,300' in length, the new parcel no longer met the 1:3 width to depth ratio.

Based on the information presented and the context of the situation, staff met with the technical review committee and the recommendation of approval with modifications were considered. The applicant would be required to address the means of access to the shop that will remain on the residual home parcel.

Mr. Bontrager explained to the board that in the future they would like to tear down the existing house and build a new house that would have a new drive on the east side of the property.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Pike Lumber Co – Grahms – Has no problem with the request.

Mr. Wickizer moved and Mr. Bennett seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Miller asked if this request was approved if they would have to file for an easement for the shop? Mr. Adley said no that it would need to be taken into consideration when deciding what they are planning as far as the new home and that new address.

Mr. Berger made a motion to approve 19-BZA-26 BONTRAGER, Allen - A request for a Variance of Developmental Standard to allow one parcel to be split (chicken barn from the residence) while one of the parcels will not meet the 1:3 width to depth ratio, located at: 1061 19th Rd., Tippecanoe, IN Tippecanoe Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

June 11, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, June 11, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, Mark Wickizer and Bob Yoder (alternate for Matt Miller), Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the May 14, 2019, meeting. **Mr. Bennett made a motion to approve the minutes as amended, seconded by Mr. Wickizer. Motion carried by acclamation.**

The second item of business was 19-BZA-27 HOCHSTETLER, Kim - A request for a Variance of Development Standard to allow for the following reductions to add on to the existing home: reduction in ROW from the required 30' to 17' from the road, reduction in rear yard from the required 45' to 35' and reduction in side yard from the required 10' or 10% to 8', located at 4016 Liberty St., Bremen, IN German Twsp., Zoned L-1 on parcels 50-43-07-000-027-000-005 and 50-43-07-000-026-000-005. Mr. Kim Hochstetler was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the front yard setback from 30' to 17' from the road, reduce the rear yard setback from 45' to 35' from BFE, and utilize the same lot definition to reduce the side yard setback from 10' to 8'. Mr. Hochstetler owns the 3 parcels that are to the West of him which would be one and 2 half sized lots. The majority of the adjacent parcels are encumbered by the AE Flood zone. The structure is estimated to come up to the flood zone.

Mr. Hochstetler stated that his addition will be in line with his existing front porch. The addition will match the brick on the existing home. Will also be built on a crawl space as the existing house has a crawl space.

When asked if Mr. Hochstetler could build in a flood zone Mr. Adley explained that you can build in a flood zone but would have to be built 2’ above BFE. You would also need additional survey and engineering requirements through stages of construction.

The lake side of the new addition isn’t protruding out past the existing home. The flood plain however is protruding more into the north corner of the property.

Mr. Hochstetler plans to challenge the flood plain if the board approves his request. He wasn't interested in doing it if he didn't get approved for this request.
Mr. Adley stated that the greatest concerns are the flood plain and being able to meet the proposed 8' side yard setback reduction.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Hochstetler has never purchased flood insurance and doesn't plan on it. The properties have never flooded. The basement has never been wet. This spring with all the rain the sump pump ran a few times.

Currently parking for the property is on a lot across the street on the channel.

The proposed addition will be a one-story addition with 971 sq feet and the existing house is approximately 1,175 sq ft.

The board doesn't see that the addition will limit the view of the water to surrounding properties.

Mr. Gustafson asked if his remaining three lots could ever be built on. Mr. Adley explained that they could apply for a LOMA or would have to build 2' above flood elevation. They will also need to consider getting a well permit.

The neighbors said to the applicant they are happy about the addition and had no concerns. They didn't want to come to the meeting.

Mr. Yoder asked for the stated reasons for TRC's recommendation for denial. The reasons were that the information provided didn't address that it was 35' from the lake not from the BFE which didn't address that setback. The other aspect was that he was getting closer to the road. Currently he's 20' and the proposal will be 17' when the requirement is 30' from the ROW not the paved improvement.

Mr. Gustafson asked if the applicant would be willing to reduce the size of the addition. Mr. Hochstetler said no that its already too small the way it is.

The portion that will be in the flood plain will be the enclosed porch.

Mr. Adley stated that there is a concern of not knowing if he will be encroaching on his 2nd half lot. Based on GIS it looks like the improvement will be less than the 8' proposed. Mr. Hochstetler commented that the GIS is not correct. He stretched a line from the front to the back and measured over and it's 8'. The property hasn't been surveyed by the applicant. Each of the properties has a separate sea wall. Mr. Adley commented site plan that was provided wasn't sufficient enough to distinguish whether or not that 8' is going to meet any of the lot lines there with any sort of certainty.

Mr. Bennett made a motion to approve 19-BZA-27 HOCHSTETLER, Kim - A request for a Variance of Development Standard to allow for the following reductions to add on to the existing home: reduction in ROW from the required 30' to 17' from the road, reduction in rear yard from the required 45' to 35' from the lake and reduction in side yard from the required 10' or 10% to 8', located at 4016 Liberty St., Bremen, IN German Twsp., Zoned L-1 on parcels 50-43-07-000-027-000-005 and 50-43-07-000-026-000-005 with the following additional stipulations:

1. **Apply for LOMA**
2. **Combine adjacent half lot with the lot that has the house on it.**
3. **Provide a survey with the proposed plotted house proving to meet the eight-foot (8') setback that was applied for.**
4. **In the event the two parcels (4016 Liberty St & adjacent lot) cannot meet the eight-foot side yard (8') setback the applicant has the option to reduce the size of the addition to meet the requirement OR move the north property line over enough to allow the required eight-foot (8') setback. If said property line has to be moved the applicant will be required to combine parcels 504307000024000005 and 504307000025000005. That combination would require a re-plat/Plan Commission.**

Seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

Other Business

We've received notice that the board's attorney, Ken Lukenbill, has advised the office that he wishes to step down as the board's attorney. In the near future there will be talks between the Plan Commission and this board of the their options. At this time no final date has been given.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

July 9, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, July 9, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, Mark Wickizer and Matt Miller, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the June 11, 2019, meeting. Mr. Bennett made a motion to approve the minutes as written, seconded by Mr. Wickizer. Motion carried by acclamation.

The second item of business was 19-BZA-28 SALYER, Syntha & Bruce -A request for a Variance of Use to allow an existing building to be used as an engine machine shop; located at 7459 17th Rd. Argos, IN Walnut Twsp. Zoned A-1. Ms. Syntha Salyer, Bruce and Janet Salyer were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to convert an existing 32x244 agricultural building into an engine machine shop. The applicant indicated that there will be no vehicles at the site. The business owner will pick up the engines, work on it and deliver it. The business exists in a neighboring county currently.

The A-1 District permits Home Based Business, Home Workshops and Home and Garden Equipment Repair and Maintenance. A Home-Based Business is an accessory use to a residential property carried out for gain by one or more residents of the property, which is clearly incidental and secondary to the use of the property for residential purposes. Home Based Businesses are intended to provide for a base of operations for service-oriented businesses that engage in work elsewhere other than the residential property where based. Such businesses might include but are not limited to landscaping, construction, excavating, septic service, etc. A Home Workshop is an accessory use to a residential property carried out for gain by one or more residents of the property, which is clearly incidental and secondary to the use of the property for residential purposes. Home workshop uses may include light fabricating, light manufacturing or processing activities or related storage facilities.

Based on the information provided and a review by the Technical Review Committee, Staff would recommend approval of the proposed use provided there will be no outdoor storage. Further stipulations that should be considered include: area of the business, number of employees, customers and/or storefront.

When asked about the proposed business plan the following information was given:

1. Applicant is the only employee. Possibility of 2 more in the future.
2. Hours are 7am to 6pm Monday through Saturday.
3. No signage
4. There's very little waste. Has a friend that will accept oil. Otherwise, there's a company (Safety Clean) that can come to the site to pick it up.
5. Engines are taken apart; machined, new parts are purchased and the engine is rebuilt and tested. When it's completed the owner comes and picks up the engine.
6. The facility has a 400-amp service

Mr. Wickizer explained that all waste will need to be properly disposed of and meet IDEM's requirements.

The board also explained that the use of the structure will also require a Construction Design Release to be filed with the State of Indiana.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Bennett.

1. (unknown) Lives on the corner of 17th and Ironwood – Doesn't necessarily oppose. The intersection has become dangerous. Concerned about traffic increase and size of vehicles expected.

Mr. Bennett made a motion to close the public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

Because this is such a specialized business of race care engines it's not a demanding storefront business. There may be a few deliveries from UPS, but no large delivery trucks. This will not be a high-volume business. With no employees it would be difficult to complete an engine a week.

Mr. Wickizer made a motion to approve 19-BZA-28 SALYER, Syntha & Bruce -A request for a Variance of Use to allow an existing building to be used as an engine machine shop; located at 7459 17th Rd. Argos, IN Walnut Twsp. Zoned A-1 with the following conditions:

1. Employees will be limited to two
2. Hours of operation 7am – 6pm Monday through Saturday
3. No signage
4. Proper disposal of cleaning solvents and used oils in accordance with IDEM
5. CDR required
6. Average of 4 engines per month

Seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fourth item of business was 19-BZA-29 VANHERK, Andrew & Carolyn - A request for a 250 Telecommunications Facility including fence, ground equipment and tower, located at 10702 SR 17, Plymouth, IN 46563, West Twsp., Zoned A-1. The applicant requested to table their case.

The applicant requested the meeting be tabled until August.

The fifth item of business was 19-BZA-30 MARSHALL COUNTY REMC - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 20' to 8.25' in order to install a prefabricated building to house electronic equipment; located at 17985 3 B Rd., Walkerton, IN Polk Twsp., Zoned A-1. Mr. Dave Lewallen was present to represent his request. Mr. Adley presented the findings of fact.

The subject parcel is an existing Marshall County REMC Electrical Substation. The applicant is seeking to reduce the rear yard setback in order to place a pre-fabricated building for storage of their electrical equipment that will be used for the fiber optic network.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation.

1. Marvin Houin – Is not opposed to the request.

Mr. Wickizer moved to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

Mr. Wickizer made a motion approve 19-BZA-30 MARSHALL COUNTY REMC - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 20' to 8.25' in order to install a prefabricated building to house electronic equipment; located at 17985 3 B Rd., Walkerton, IN Polk Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 5-0.

The sixth item of business was 19-BZA-31 ABATE OF MARSHALL COUNTY INDIANA - An Administrative Appeal to allow for a $75 fee waiver for the July BZA meeting for the upcoming Summers End Event being that it's a fundraiser for a non-for-profit. Mr. Michael Fisher and Ms. Diane Fisher were present to represent their request. Mr. Adley presented the findings.

Mr. Fisher is the Marshall County Abate representative and Ms. Fisher is the Marshall County Abate secretary.

A previous Board of Zoning Appeals member suggested that they get the application fee waived during their 2018 BZA meeting since the Marshall County ABATE of Indiana is a not for profit fundraiser. The staff did not waive the fee and at which point suggested that they could file for an appeal of said decision.

Based on the information provided and review by the Technical Review Committee, Staff would recommend that the determination of the fee for filing be upheld and paid. Granting of the appeal could potentially open up a trickle effect where additional applicants will want to appeal their fee for variance application.

Mr. Gustafson's opinion was if the rules were followed as the board set forth yearly applications wouldn't have to be filed for and filing fees wouldn't have to be paid.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Holly Bridgeman – Co Director of the region for ABATE, Indiana – Speaking on behalf of Abate as a not for profit. They are a 501 C3 and have been for more than forty years. To date they have donated more than one million dollars of charitable money to several organizations. These events are how each county and region raise operating funds to do these things annually. Every region of every county has multiple events that are put on. Recently, during P-Town Cruise in ABATE had children's motorcycle adventure downtown that was free. It gave children opportunity to experience motorcycling. Abate offers riders education for the BMV for over forty years. Each region decides how they are going to support each operating budget. This is an annual event and every nickel counts for them. This $75 does add up. With 92 counties times $75 it makes a difference to their annual budget.

Mr. Berger made a motion to close the public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

Mr. Wickizer's opinion was that this fee waiver will not set a precedence as each case should be heard on a case by case basis.

Mr. Wickizer made a motion to approve 19-BZA-31 ABATE OF MARSHALL COUNTY INDIANA - An Administrative Appeal to allow for a $75 fee waiver for the July BZA meeting for the upcoming Summers End Event being that it's a fundraiser for a non-for-profit, seconded by Mr. Bennett. Motion carried with a voice vote 3-2 with Mr. Miller & Mr. Gustafson voting against.

The seventh item of business was 19-BZA-32 SOMMERS, Richard (ABATE)- A request for a Special Use to allow ABATE to run their annual Summers End event from September 20th - 22nd, 2019, along with the desire that this approval be good for three (3) years; located at: 10648 Upas Rd., Plymouth, IN West Twsp., Zoned A-1. Mr. Michael Fisher and Ms. Diane Fisher were present to represent ABATE. Mr. Adley presented the findings of fact.

This even was approved in 2014-2016 and 2018 with conditions. The motion to the 2018 meeting was as follows:

> *Mr. Wickizer made a motion to approve 18-BZA-30 – A request for approval of a three day Summers End Event during the month of September, located on a parcel owned by Richard Sommers 10648 Upas Rd., Plymouth, IN Zoned A-1, West Twsp., with the following conditions: 1. EMT 2. Sanitation 3. County police notification 4. Music to end at midnight. 5. One-year approval from Friday at noon through Sunday at noon. 6. Security.*

Recommendation of staff and Technical Review Committee:
Based on the information provided would recommend approval with the following conditions at this time.

1. That proper sanitation be met and in conformance with applicable Department of Health standards.
2. Shall Notify sheriff of event.
3. There will be no parking within the right of way.

4. Amplified music to be turned off at midnight.
5. Event officials shall minimize the amount of light cast onto adjacent properties.
6. EMT and security officials to be on site during the event.
7. One-year approval from Friday at noon through Sunday at noon on the subject date.

A security plan and Abates security basic standards for event security and region policies were submitted from ABATE.

The 2018 Summer's End Event raised over $6,500 to donate to ABC and Abate of Indiana to help with local charities and others across Indiana. Each year the event raises more money which allow them to provide more support for the charities.

The last couple years had approximately 750 people attending. The people who attend are quality people. They don't intent to cause any problems. They are there to enjoy the end of summer. This event is planned a year in advance. Many of the neighbors attend the event as well.

When asked about liability insurance, Mr. Fisher explained that ABATE of Indiana provides the liability insurance.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. Richard Sommers – Property owner is in favor of the event as well as a three-year permit approval. A big reason for the three-year commitment is because a transformer is being considered and REMC is offering this with a 2 ½ year commitment.
2. Brandy Mills – See's how during the downtown concerts people get drunk are in a mixed crowd. This event is for adults only. They raise money for education for safety. Knows there are neighbors to this location that sit on their porch and listen to the music. Has talked to the sheriff's department and they commented that there hasn't been an influx of calls due to this event. Is in favor.
3. Steve Thomas – A Kosciusko County Abate Member – Believes it's a good event. The county should consider the revenue it brings into the county.
4. Tim Sommers – 17939 Lincoln Highway Plymouth – Has been to the last two abates and has enjoyed it immensely. Good for charities.
5. Lou Ann Falkowski- 10555 Upas Rd. – Lives directly west of the property. This event has the same problems every year. The band usually quits within 20 minutes of the time required, but last year after the band stopped there were speakers being used by people screaming loud. It wasn't all of them probably just a couple. It went on till about two in the morning. Thinks it's a great group and loves that they come during the day but can't seem to knock it off after the band is done.
6. Mike Delp – 1707 S. Michigan St. – Friends with Ms. Falkowski. If they can't stay within the limits that have been set, he sure wouldn't grant them a three-year use for the event. Surprised the board approved a fee waiver as they were setting a precedence and have always been told not to set a precedence. Asked if there is alcohol being served on the premises. Mr. Fisher said that they do NOT serve

alcohol, but there is alcohol brought by attendees. Doesn't see how we can ignore the people that live around where the event is held when there are issues year after year. Why can't they find another location? Likes what they do. Support many nonprofits. Why do we inconvenience someone across the street to be able to accomplish this? If they can't follow the rules, they need to find another property that there isn't such a concern.

7. Tom Sanders – Letter – This is an awesome event and doesn't have a problem with it continuing.
8. Steve Penrod – 10790 Upas Rd. - Totally against the Summers End Event. For the following reasons: Excessive traffic, noise of cars and motorcycles, music loud and runs past when it's supposed to, drones being flown over my property and not being able to sleep because of the excessive noise from the event. Parents live next door and it causes them an excess of stress. Request permission would be denied.
9. Roger Penrod – 10850 Upas Rd. – Have put up with loud music, loud motorcycles and believes the location for the even should be moved to another location.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

The band is located in the middle of a surrounding of trees. That location was picked to use trees as a sound barrier. They also have a big top that helps reduce sound.

The security team works very hard keeping the sound down. If it was 2:00am in the morning when the neighbor heard music, they apologize for that. When they hear that the security goes right to the camp site and confronts the situation.

Mr. Gustafson is in favor of what they do. They just need to keep the noise down.

Upas and 10B Road are naturally busy roads. As far as the loud noises with the speakers the Fisher's weren't aware of it. Most likely the security probably got right on it and shut it down.

When asked who is in charge of the event and who will come back to the board if there are any problems and Mr. Fisher responded that it was him.

The proposed new generator replaces a 85KW ($1,200 to rent) that was rented for the bands and vending area. The campers may have small generators.

Mr. Fisher feels that if Mr. Sommer's makes the commitment with REMC on this transformer they in turn would like to have a commitment with Mr. Sommers as well by having a three-year approval.

The board's biggest concern is the noise and the rules being followed so the neighbors aren't being disturbed.

The Fisher's desire is to run a good event and do their best to make all the neighbors happy.

This event has been going on in Marshall County for over 30 years. The most recent change of location was due to the owner changing the overall use of the property.

Ms. Fisher feels that they have done their best to address all concerns over the years. They would like to make everyone happy, but not sure if that's possible. The roadway noise concern they are not sure how they can control that.

Mr. Gustafson felt that running up and down the road at 2 am should be controlled. Mr. Fisher stated that they are not running up and down the road at 2am. The security is watching the gate all night long and if they feel that somebody has been drinking too much they are not allowed to leave. They are a motorcycle rights organization that stands for safety and education.

Mr. Wickizer made a motion to approve 19-BZA-32 SOMMERS, Richard (ABATE)- A request for a Special Use to allow ABATE to run their annual Summers End event from September 20th - 22nd, 2019, along with the desire that this approval be good for three (3) years; located at: 10648 Upas Rd., Plymouth, IN West Twsp., Zoned A-1 with the following stipulations:

1. One-year approval from Friday at noon through Sunday at noon.
2. That proper sanitation be met and in conformance with applicable Department of Health standards.
3. Shall Notify sheriff of event.
4. There will be no parking within the right of way.
5. Amplified music to be turned off at midnight.
6. Event officials shall minimize the amount of light cast onto adjacent properties.
7. EMT and security officials to be on site during the event.
8. Three-year approval.
9. This approval can be revoked for non-compliance, disorderly conduct reports, or high-level noise reports.

Seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The eighth item of business was 19-BZA-33 PENROD, Michael - A request for a Variance of Development Standard to reduce the Right of Way setback from the required 50' to 37' to build a garage for personal use, located at: 9007 6B Road, Plymouth, IN, Center Twsp., Zoned A-1. Mr. Michael Penrod was present to represent his request. Mr. Adley presented the findings of fact.

The plan is to build the new garage at the same setback as the adjacent building. The reason for this location is that he can't go back further due to the seasonal flooding that occurs at the rear of his property.

Mr. Penrod first came in the office and was told that he couldn't built where he wanted to without a variance. Previous director, Mr. Booker, said that as long as he isn't going any closer to the road, he would be okay with it. So, in the Spring he prepped the ground to get ready for the building.

There will be no concrete it will be just gravel. It will be used for storage of personal and farm equipment.

The house was built in the late 1800's and not sure when the garage was built. Mr. Penrod bought the property in 2003.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Bennet made a motion to approve 19-BZA-33 PENROD, Michael - A request for a Variance of Development Standard to reduce the Right of Way setback from the required 50' to 37' to build a garage for personal use, located at: 9007 6B Road, Plymouth, IN, Center Twsp., Zoned A-1, with the stipulation that the distance is no closer to the road than the existing garage, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The ninth item of business was 19-BZA-34 DANIELS, Frederick (Danny Burch) - A request for a Special Use to allow a shooting range to be used specifically for training on the northwest corner of the property, located at: Ule Tr., Parcel No. 50-51-19-000-023-000-011, Polk Twsp., Zoned A-1. Mr. Dan Burch (67101 Ironwood Rd. Bremen, IN) was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to relocate a shooting range from his current location to the proposed training location for Hoosier State Training. The range itself will be located in the Northwestern corner of the property away from the adjacent residential uses. A shooting range is a Special Use within the A-1 district.

The proposed plan will mimic the range built at the Atlanta Conservation Club in Atlanta. A plan was shown to the board. From the roadway there is already a 15' drop.

Based on the information provided and the review by the Technical Review Committee, and Staff would recommend approval with the following conditions. 1. Address the backstops (addressed by business plan) 2. Operations from dawn to dusk. 3. Only use of legal firearms.

Mr. Burch doesn't have any immediate plans to build a house at this location. The current location of the shooting range is in St. Joseph County and is separate as well from his residence.

There are 1 or 2 planned dusk to dawn trainings. Other than that, there will be no shooting after 10pm.

This is not intended to be a public range. It is a shooting range for Mr. Burch to use for his company. Customer's are law enforcement and not law enforcement. Shooting is by invitation only. Anyone that shows up for class Mr. Burch is aware of who they are when they show up.

This operation is part time as the applicant is a full-time police officer with the Indiana State Police. This is only a Saturday operation 2-3 times per month. It's primarily during the day from 8-5pm. There are only a couple night shootings per year.

The plan is to put a gate at the entrance at the north side of the property. There's no intention of putting a fence around the property at this time.

Mr. Burch talked to one neighboring property owner and they didn't have any problem with the proposal. Another owner had a slight concern about noise as he sleeps during those times.

This operation will be ran by Mr. Burch. There will be no employees. There will be no signs.

Mr. Burch is also proposing to put up a metal carport at the site for shade and shelter from the rain. There are no immediate plans for a permanent structure.

Currently there are morning and afternoon classes as well as a full 8-hour class. There will be a port a Jon at the location.

Mr. Miller has been a part of Mr. Burch's training and felt it was a very good program. Also believes the board should consider some of the night training Mr. Burch has requested.

Mr. Burch currently works for a friend of his. He has proposed to buy his property and is not interested in selling it as he uses the property for outside storage. This property would be used for recreational use as well as this business.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Kara Burch - 67101 Ironwood Rd. – Is in favor of the request. Wanted to clarify that there will be no firearms or targets stored at the property.
2. Arlene Fouts McCan – Owns 15 acres near the proposed shooting range. Isn't in favor of the request because of the close proximity as well as the noise. There is no longer any home on the property.

Mr. Burch was asked what direction he would be shooting he stated that because of the layout of the ground it worked best for him to build up his berm to 15-18 feet and be shooting to the south.

3. Sherry Crump – 480 N. Ule Tr. – Submitted a petition to the Plan Commission with sixteen signatures. Has 8 kids and 21 grandkids and when they have family events they are usually on Saturday's. This is a populated area. Many of the people who signed the petition have concerns with sound and safety. Has a concern with increased traffic as well. Doesn't understand the process, but also concerned it could extend to additional days.
4. David Hostetler 177 – Ule Tr. – Doesn't want it in their back yard.
5. Jane Hochstetler – 230 Ule Tr. – Went along with Sherry to get signatures for the petition. Has a special needs child that will be affected greatly by the noise and not feeling safe.
6. Mike Foster – 781 Ule Tr. – Wouldn't feel safe in the backyard when they would be shooting his direction. Doesn't believe that trees will prevent the sound. Also concerned about the decrease in property values.
7. Carolyn Kelly – 13225 US 6 – Letter against the request.
8. Ray Harness – 417 Ule Tr. – Against the request.

9. Mark Groves – 319 Ule Tr. – Against the request.
10. Mike Foster – 781 Ule Tr. – Letter re-stating what said above in person.
11. Petition with 16 signatures.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Burch made contact with 19 of the people that were notified of the meeting. After speaking with them only 2 were adamantly opposed. The others had concerns about noise.

The board isn't concerned about the safety and as they believe Mr. Burch is extremely qualified. Mr. Burch listed his credentials. The boards concern is the close proximity of a residential neighborhood that is very against the request.

Finding a good location took almost a year. They searched for a parcel with the right topography, sparsely populated and something that could also be used for recreational purposes were important.

The board asked if he's looked into using someone else's range. Mr. Burch commented that normally other range owners don't allow others to come in and teach.

Renting other facilities to do his program would be few and far between.

The 2008 case for a gun range on Thorn Road was brought up along with concerns at that time. The stipulations along with the approved were to plant a row hemlock, limit the number of qualifying officers to 5-6 at one time, no qualifying on Sundays and to control the parking. This was an existing gun range in which they wanted to increase the size.

Mr. Wickizer made a motion to deny 19-BZA-34 DANIELS, Frederick (Danny Burch) - A request for a Special Use to allow a shooting range to be used specifically for training on the northwest corner of the property, located at: Ule Tr., Parcel No. 50-51-19-000-023-000-011, Polk Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 4-1 with Mr. Miller voting against. Based on Findings of Fact #1 (General Welfare) and #5 (location is too populated).

The tenth item of business was 19-BZA-35 TEACHER, Robert – A request for a Variance of Development Standard to reduce the Right of Way Setback from the required 50' to 49' in order to allow for an open porch on the front of the house; located at: 2395 N. Quince Rd., Walkerton, IN Polk Twsp., Zoned A-1. Mr. Robert Teacher was present to represent his request. Mr. Adley presented the findings of fact.

Putting a steel roof over the whole house and would like to add on an open porch at the same time. Currently the house sits at a little angle enough to where the south portion of the home meets the 50' right of way setback, but the north corner is only 49' from the right of way.

The board asked how far the existing pole barn is from the right of way line. It was found with the GIS measurement to be 35' from the right of way.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Berger made a motion to approve 19-BZA-35 TEACHER, Robert – A request for a Variance of Development Standard to reduce the Right of Way Setback from the required 50' to 49' in order to allow for an open porch on the front of the house; located at: 2395 N. Quince Rd., Walkerton, IN Polk Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The eleventh item of business was 19-BZA-36 LEMLER, Ronald & Ronda - A request for a Special Use to allow an existing Pallet business, located at: 9200 Apple Road, Bourbon, IN Bourbon Twsp., Zoned A-1. Mr. Ronald Lemler was present to represent his request. Mr. Adley presented the findings of fact.

While processing a permit application for a 16x64 lean to addition to an existing building we observed a pallet business. This business has been running since the early 1970's without a formal approval from this board. The applicants are here to request the board's approval.

Based on the information provided, existence prior to zoning, and depending on the public comment at the hearing staff would recommend of the approval of the business to continue its operations. Conditions may be necessary as determined by the BZA; limiting employees, hours of operations, public entrance to the site, etc.

Many years ago, the building burnt. It was rebuilt in July of 2013 by Steelridge. Mr. Adley explained that if the building were rebuilt in the same footprint as the previous building it would be grandfathered. At this point he is expanding the structure/business which needs approval.

The intent is to cover the material and make it more non-visible to the road. Currently, the business has two employees which is himself and a son. The hours of business are 7am to 5pm Monday through Friday. Some Saturday morning's maintenance gets done to the facility, but there is no production. There is no signage for the business.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Miller made a motion to approve 19-BZA-36 LEMLER, Ronald & Ronda - A request for a Special Use to allow an existing Pallet business, located at: 9200 Apple Road, Bourbon, IN Bourbon Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried by acclamation.

The twelfth item of business was 19-BZA-37 ANCILLA DOMINI (Green Alternatives) - A request for a Special Use to allow two (2) medium solar panels, located at: 20011 9 B Road, Plymouth, IN West Twsp., Zoned A-1. Mr. Adam Sada (project manager works for Ancilla) and Mr. Chris Rahali(?) of GAI Solar (Kokomo) were present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to install 2 grid tied PV Solar Systems (200kw) and (300kw), both medium sized solar panels. They are roughly 29,000 and 35,000 square feet. The systems will be located on the north side of the campus, just north of the residence halls. In Marshall County our ordinance requires that all medium and large solar systems be reviewed by this board.

Based on the information provided, staff and TRC would recommend approval of the proposed solar installations.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. Allen Pontious – 8801 Union Rd. – In favor of the request. Questioned why he got the letter for the meeting and the construction had already started.
2. Donna Pontious – 8801 Union Rd. – Questioned how much bigger a larger solar system is compared to what is already put out there. Questioned the address.
3. David Hostetler – 133 N. Ule Tr. Walkerton – What is the end of life plan for this solar system? Wanted to make sure there is a plan in place and bonds in place to make sure when they decide to walk away from this it gets cleaned up. Believes the long-term effect is not all positive.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

Mr. Rahali explained to the board that his company did apply in advance for the permits and once the permit was approved, they immediately moved ahead. With much of the spring waterfall challenges the contractors were all lined up and ready as soon as the permit was ready. Shortly after the Plan Commission discovered there was an overlay over Ancilla that requires all medium solar panels to be reviewed and approved by the BZA the office put a hold on the permit until the board approved the permit. At that time the contractor's pulled off this specific permit and worked on the small roof top solar that does not require board approval.

When asked for a comparison of the size of panels the applicants stated that the proposed panels are double the size of the ones on the corner of Michigan Rd. and US 30.

Ancilla owns the solar systems and they have connection permission through NIPSCO through a formal interconnection policy. The contract with Ancilla has no end of life provision. The plan that they submit for decommissioning involves removal of the equipment. The material in the ground is galvanized steel and it can either be pulled up or cut off at ground surface depending on the anticipated land use of the ground. The panels themselves more 90% of the mass of them are recyclable. In large part they are aluminum and glass. The silicon which is the active black surface on the cells there are recycling programs being developed. The direction the industry is going they anticipate the decommissioning could actually be a revenue source for the school if they were to sell the materials for recycling. Currently there is no bond in place.

Mr. Wickizer asked an estimated cost to disassemble to solar systems. Mr. Rahali stated around the $20,000 - $30,000 range. There is very little concrete in the ground, it is a driven pile.

Mr. Rahali commented that there are controlled toxic materials used in processing and fabrication. In his opinion the only leachate is the adhesive.

The solar systems will offer a significant offset in electric. The reason it is in two different systems is because there are two different electric meters. The current policy does not allow connection of something that will produce more energy than you use over the course of a year. Both systems are estimated to offset the electric by two thirds to three fourths.

Mr. Bennett made a motion to approve 19-BZA-37 ANCILLA DOMINI (Green Alternatives) - A request for a Special Use to allow two (2) medium solar panels, located at: 20011 9 B Road, Plymouth, IN West Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The thirteenth item of business was 19-BZA-38 SLABAUGH, David - A request for a Special Use to amend Special Use (16-BZA-16) to permit kennel to house 45 mature dogs (55 lb Boxers and Goldendoodles) plus offspring, turning litters 2x per year. Pups are kept on site until 8 weeks of age; located at: 430 5B Road, Bremen, IN German Twsp., Zoned A-1. Mr. Randy Spitaels, attorney of Kindig and Sloat, and Mr. David Sloat were present to represent their request.

The applicants request was as follows:

1. The applicant would like to amend his approval kennel business from 12 mature dogs to 45 mature dogs plus offspring, turning litters 2x per year.
2. There is approximately 1,400' from the nearest residence.
3. The animals will be housed in a noise suppressing shelter between 9pm and 6am
4. Their plan is to remove the existing kennel and build new.
5. The kennel will have two fences. One enclosing primary enclosure and one enclosing the entire kennel and surrounding area.
6. Waste will be placed in a compost site (4'x4'x3') concrete structure with roof and then spread on the grassy field. The Marshall County Health Department has been advised of said procedure.
7. Dogs are boxers and goldendoodles. They will be kept on site until 8 weeks of age.

There was an existing kennel with four runs. In 2016 an additional kennel and four more runs were approved. The proposal is to remove the oldest four runs to the west and rebuild the kennel and runs on the east side. This would put a separation between Mr. Slabaughs dogs and the breeding dogs.

A letter was received from the Health Department explaining that their department recommends that the dog kennels and fences are 100 ft from the well. Once the homeowner's reach a certain number of dogs or puppies then IDEM will have to be contacted for a confined feeding permit.

The minutes of the 2016 meeting was as follows:

Mr. Gustafson made a motion to approve the request 16-BZA-16 Slabaugh, David a – A request for a Special Use to have a kennel with twelve dogs, located at 430 5B Road, Bremen, IN Zoned A-1, German Twsp., with the following specifications: 1. Meet the developmental standards in the Marshall County Zoning Ordinance. 2. Noise proof shelter from 9pm to 6am. 3. Two fences one fence must be solid on both sides, seconded by Mr. Wickizer. Motion carried with a voice vote 3-0.

There has been a review of the requirements to spread dog manure for fertilizer which is a portion from the Indiana State Chemist. They would have to approve said request.

Under 355IAC 8 which is applicable to anyone that spreads more than 10 cubic yards or 4,000 gallons of fertilizer in a calendar year. We would need to know the amount that would be produced by the facility in order to figure out whether this facility would need to meet that requirement. If so, we would have to advise them and find out if there are any other items that need to be adhered to.

Recommendation of staff and TRC: Based on the information provided and review of the development standards that the operation is to adhere to including the conditions set on the previous approval, staff will recommend denial of the proposal until the following items have been addressed: 1. The condition found in 16-BZA-16 is met and adhered to. 2. A waste disposal solution is approved by the Marshall County Health Department.

The previous approval required the applicant to install one fence that was solid on both sides and this requirement was not adhered to. There are two fences just one of them are not solid.

Before the meeting Ms. Cox from the Humane Society along with Mr. Adley went to the applicant's residence unannounced to gauge the animals and facility. Especially since the facility will be growing from 12 dogs to 45 dogs. We wanted to make sure the current 12 dogs were receiving adequate care. It was in good shape and clean. Ms. Cox extended high praises for the condition.

The OISC (Office of Indiana State Chemist) has fertilizer rules for manure that govern application rates restrictions and setbacks. Under 355IAC 8 which is applicable to anyone that spreads more than 10 cubic yards or 4,000 gallons of fertilizer in a calendar year. Mr. Adley believes that the Marshall County Health Department will want to see that approval letter from the Indiana State Chemist prior to the recommendation of approval to the BZA.

Board of Animal Health's definition of a licensed breeding facility is 20 adult female dogs which are 12 months and older. Currently Mr. Slabaugh doesn't fall under this category. The proposal will definitely exceed the amount. Based upon conversations between Mr. Slabaugh and Mr. Adley the applicant is very interested in bringing a better reputation to these breeding facilities.

To clarify council stated that there are 20 proposed runs in the new building. Eleven on one side and nine on the other.

Mr. Sloat is the acting attorney, due to him being out of town Mr. Spitaels represented Mr. Slabaugh. A waste disposal program was started in the beginning of June with the Marshall County Health Department. Marshall County's regulations for waste disposal have been requested, but have received nothing to date. For the meeting Mr. Sloat and applicant prepared a plan to have a compost site. A standard operating procedure was submitted to the Health Department. It was mimicked off a USDA brochure about composting waste.

The Marshall County Health Department did advise Mr. Slabaugh that they will be relying on the State Board of Health. This board said that unless the area is ¼ acre in size they wouldn't need to be involved. Another option has been discussed with the Health Department and that was taking the waste to a sanitary landfill. A compost proposal was submitted with the request; however, they are looking into other options. It's their opinion that they didn't get clear information on the county's regulations.

While discussing the proposed structure and the waste water that comes from it Mr. Adley explained that the Marshall County Health Department is not involved as it is a commercial facility. This requires all approvals to go through the State Board of Health.

Mr. Slabaugh explained to the board that he is proposing what's called a "dry kennel". This is where the dog washes down his own puppies for the first few weeks. After that large flake sawdust is put down. Eliminating the water cuts down on the smell of the dogs and no bacteria. To date there's been no sickness. The only need for a septic system is if for some grey water that comes from some washing without any dog waste.

Mr. Slaubaugh explained the reason for keeping the one kennel is to house the male dogs. Then if other females are brought in for breeding services he wants to keep them separated to keep contamination out of the new kennel. Plans on going with a USDA license. He understands his lack in getting the solid fence put up. He had no problem making sure that gets completed right away.

Mr. Spitaels requested the board approve the request presented along with the two conditions presented in the recommendation: 1. The condition found in 16-BZA-16 is met and adhered to 2. A waste disposal solution is approved by the Marshall County Health Department as opposed to denying the request pending compliance. Mr. Slabaugh apologized for not have the double-sided fence up, but will get it done.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Allen Young – (6th Rd.) Opposed to the request and in their opinion believes this is a puppy mill.
2. Kenneth Miller – (578 5 B Rd.) Not in favor of the request. Doesn't want any more barking dogs. Their residence is about 1,400 feet away from the kennel.
3. Michael J. Miller – (171 5B Rd.) Already has 4 dog kennels within a half mile. It gets annoying with barking dogs. Opposed to the request.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

Most all of the dogs are retail. At times they go to pet shops. Once the USDA is approved, he will be shipping.

The original plan was to have 30 – 35 female dogs. That would produce an average of one to 1 ½ litters per year per dog. Litters usually range from 6-10 pups. Mr. Slaubaugh was encouraged to put a maximum amount he would like which is why he asked for 45.

Currently there is a row of shrubbery to help cut down the noise. He believes that once the solid fence is put up that will also cut down noise.

After all the discussion and there still being many unknows about the waste the board asked the applicant if they would like to table the request until they have a clear plan set in place.

Mr. Spitaels requested that the board allow the applicant to table their request.

2020 Proposed Board of Zoning Appeals Budget

The 2019 Budget for the Marshall County Board of Zoning Appeals was $9,150. Since all our violation cases have been moved over to the Plan Commission Mr. Adley proposed to move 4,000 from the BZA to the Plan Commission since that is where the majority of legal fees will be paid out of due to code violations. The proposed amount for 2020 is $5,150. Mr. Wickizer made a motion to approve the proposed Board of Zoning Appeals Budget, seconded by Mr. Miller. Motion carried by acclamation.

Violations

As of 6/10/2019 there are 8 warnings, 16 fines, 8 attorney, and 4 court which totals 36 total violations.

Board Attorney

At the last Plan Commission meeting Mr. Lukenbill tendered his resignation after 35 years of service with the boards. At the end of the meeting Mr. Adley was authorized to move forward with the extension of an offer to Jones Huff and Jones for their legal services. As of today's, date they accepted the offer.

Other

Mr. Bennett asked if there has been any talk about noise and/or light ordinances. Mr. Adley was not aware of any. Mr. Adley stated that policing this would be more than difficult. Noises would typically be more difficult than light. If there was someone that could police this 24/7 that might be an option. Otherwise, it would be too difficult to police.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

August 13, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, August 13, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, Mark Wickizer and Matt Miller, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the July 9, 2019, meeting. Mr. Wickizer made a motion to approve the minutes as written, seconded by Mr. Berger. Motion carried by acclamation.

The second item of business was 19-BZA-29 VANHERK, Andrew & Carolyn - A tabled request for a 250 Telecommunications Facility including fence, ground equipment and tower, located at 10702 SR 17, Plymouth, IN 46563, West Twsp., Zoned A-1. The applicant requested to table their case. Mr. Derek McGrew was present to represent the applicant. Mr. Adley presented the findings of fact.

The proposed tower will be located near the rear of the subject property adjacent to the woods. The tower will be 250' with one planned provider and expandable up to 4 providers. The applicant indicates that they are not constructing within 2 miles of any other tower.

The special use was taken to the Technical Review Committee on June 21st for the subject proposal and came to the conclusion of recommending approval with the condition the need for the tower be sufficient. In response to that since the TRC meeting Mr. McGrew (the applicant) indicated the following: 1. There are no existing towers within 2 miles, this is based on an FCC and FAA search – 2 miles is the standard set by Marshall County Zoning Ordinance. 2. I am aware that one major wireless provider is seeking to provider at one time was seeking to fill their coverage hole in this area. 4. All four wireless providers have little or no coverage at all in this area for 911 services, communications on Route 17 and the nearby residences. The response provided; staff believes it to be sufficient in meeting the condition of the Technical Review Committee.

Mr. McGrew stated that the applicant chose this location because it would be out of view of as many neighbors as possible. Plus, the structure will also meet the setback requirements.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. David Miller – 10413 Pretty Lake Tr., Plymouth – Doesn't live within the area where notifications were sent. Presented photos on a slide show. Shows he lives on the east side of the lake. Believes it will change the view as it sticks up over the tree line and will change the aesthetic view of the sunset. Quoted the Ordinance requirements for towers "d. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor." He believes it would impact the natural scenic vista. A list of 14 neighboring property owners signed a petition not in favor of the request. A decrease in property values is also a concern.
2. Robert Kizer – 10369 Pretty Lake Tr., Plymouth – Has lived in the area for many years and hates to think his view will be changed. The value of properties around the lake continue to increase because of the view. With this obstruction the possibility of decreased values increases.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

Mr. Adley explained that towers are built with camouflage requirements to not be bright colors in contrast to the area. They are intended to blend in as much as possible.

Mr. McGrew stated that the main purpose for this site is safety on the lakes. If there were a buffer of a mile and a half or two miles around a lake that lake would not have cellular service or most important safety. As far as a decrease in property values Mr. McGrew stated that there is no factual evidence to back the theory of there being a negative impact of properties based on cell towers. In fact, he believes just the opposite. If someone were to try to list their house for sale and it had no wireless coverage in the area it would definitely affect the property values. He compared telephone poles back in the day where nobody wanted those, but they wanted telephone service. Today's it's cell towers for cellular service. Tower's have to be over the trees. It cannot reach their capacity under the trees. If they were to move the location of the tower it most likely wouldn't meet the requirements of the ordinance.

As far as lighting they like to keep the lights white during the day and red at night. It is called a dual medium system.

Cell service range is based more off of usage than topography. In a denser area some towers are seven tenths of a mile apart. Whereas rural areas they are two to three miles apart.

A wireless internet company has interest in locating on this tower. A letter was provided to the board.

This tower should supply internet service within a ten-mile radius.

Mr. Wickizer made a motion to approve 19-BZA-29 VANHERK, Andrew & Carolyn - A tabled request for a 250 Telecommunications Facility including fence, ground equipment and tower, located at 10702 SR 17, Plymouth, IN 46563, West Twsp., Zoned A-1, with the stipulations:

1. TRC recommendation- Recommended approval based on the need for the tower be sufficient.
    a. There are no existing towers within 2 miles, this is based on a FC and FAA search – 2miles is the standard set by Marshall County Zoning Ordinance.
    b. One major wireless provider is seeking to provide coverage in this area for safety on the nearby lakes.
    c. Another wireless provider at one time was seeking to fill their coverage hole in this area.
    d. All four wireless providers have little or no coverage at all in this area for 911 services, communications on Route 17 and nearby residences.
2. Business Plan

Seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The third item of business was 19-BZA-38 SLABAUGH, David - A tabled request for a Special Use to amend Special Use (16-BZA-16) to permit kennel to house 45 mature dogs (55 lb Boxers and Golden doodles) plus offspring, turning litters 2x per year. Pups are kept on site until 8 weeks of age; located at: 430 5B Road, Bremen, IN German Twsp., Zoned A-1. Mr. Randy Spitaels, attorney of Kindig and Sloat, and Mr. David Slabaugh were present to represent their request.

Within the A-1 zoning district kennels are permitted as a special use by the BZA. As indicated in the request, the applicant has previously been approved for a kennel under 16-BZA-16 for 12 mature dogs and is now wanting to increase to 45 mature dogs. Per the applicant's information, the kennel will exceed the setback requirements and provide shelter for the animals in accordance with the zoning regulations. The site plan does indicate a primary and secondary enclosure meeting the fencing requirements. The applicant has currently proposed to compost the dog waste and spread said matter on their grassy field. The previous approval was granted based on the following conditions being met: 1. Meet the development standards in the Marshall County Zoning Ordinance, 2. Noise proof shelter from 9-m to 6am, 3. 2 fences 1 fence must be solid on both sides.

The applicant has submitted a business plan that staff believes to address the concerns that were raised previously at the BZA meeting in July.

BUSINESS PLAN

1. Dog Breeding
   Mature Boxer and Goldendoodle dogs weighing approximately 55 pounds each will be maintained as breeding stock for the purpose of producing offspring. At any one time there would be 30 to 35 mature female dogs and 10 to 12 mature male dogs on site, up to a maximum of 45 mature dogs. The dogs would produce 2 litters of pup's pear year. The pups would be kept on site until they are 8 weeks of age. The Petitioner intends to sell the majority of the pup's retail with the remaining dogs being sold to a broker.
2. Hours of Operation
   The Petitioner intends the hours of operation for the requested kennel to be Monday

through Saturday from 8:00 a.m. to 4:00p.m. The kennel would be staffed during the hours of operation by David Slabaugh and/or his wife, Vonda Slabaugh. There will be no employees. The Petitioner anticipates 1 to 3 customer visits to the site per day for 15 minutes to 1 hour per visit.

3. Dog Management and Care
   The Petitioner intends to bathe two of the dogs per day. The kennel would include a groom room with 1 bathtub and 1 sink, and a bathroom with 1 stool and 1 sink. All waste will be removed from the kennels at least twice daily and the facilities will be mopped clean. Wood shavings will be used for bedding. All dogs will be properly vaccinated and under the care of a local veterinarian.
4. Waste Disposal
   LLG Soil Consultant, LLC, 4909 3B Road, Bremen, Indiana 46506 (LLG) has generated a soil report based upon soil samples taken from the site on July 8, 2019. The Petitioner's application for a commercial on-site sewage system and LLG's soil report were submitted to the Indiana State Department of Health on July 16, 2019. The Petitioner intends to dispose of the dog manure generated by the requested kennel either by storing it in a location shown on the site plan, having it hauled away to a sanitary landfill or by spreading the manure on his real estate/field. The Petitioner currently has 12 mature dogs and those dogs generate one fourth of a 5-gallon bucket or .006 cubic yards, of manure per day. By extrapolation, forty-five mature dogs (3.5 times the current number of dogs) would generate .02 cubic yards of manure per day. This is summarized in the following chart:

12 Dogs	*.006 cubic yards of dog waste per day*	*2.19 cubic yards per year*
45 Dogs	*.02 cubic yards of dog waste per day*	*7.30 cubic yards per year*

   The threshold which would trigger the application of the regulations provided for in 355 IAC 8 is 10 cubic yards per year. Nevertheless, the Petitioner opts to spread the dog manure on his fields as a means of disposing of it, he will comply with those regulations provided for in 355 IAC 8 which would be applicable to the dog manure. Those regulations are attached hereto as Exhibit A. Matthew E. Pearson, Fertilizer Administrator for the Office of the Indiana State Chemist, has reviewed the Petitioner's pending Request for Special Exception/Use and has advised that applying or spreading the manure from the kennel in accordance with the regulations in 355 IAC 8 applicable to manure would be a satisfactory method for the Petitioner to dispose of the dog manure from the requested kennel even if the amount of manure the Petitioner spreads on his fields is less than 10 cubic yards or four thousand gallons in a calendar year. Mr. Pearsons's July 30,2019 email to this effect to Petitioner's counsel is attached hereto.
5. Fencing and Noise
   A 2nd fence will be constructed around the perimeter of the kennel per ordinance to provide the required noise buffer.

Some of the board had concerns with the amount of waste projected. They felt the numbers were too small. Mr. Slabaugh stated that he buys a more expensive dog food that is better and it causes less waste than cheaper foods. It was also a concern whether bedding was considered as a part of the waste amount.

Mr. Spitaels stated that whether he was below the limit or above the limit he will comply to 355IAC 8 as stated in his business plan.

The planned ratio of males to females is 35 females to 10-12 males. The litters will vary throughout the year. The gestation of these animals are 6-9 months.

Mr. Slabaugh also informed the board that the solid fence as required in the last meeting has been installed.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by application.

1. Allen Young – (6th Rd.) Opposed to the request and in their opinion believes this is a puppy mill.
2. Kenneth Miller – (578 5 B Rd.) Not in favor of the request. Doesn't want any more barking dogs. Their residence is about 1,400 feet away from the kennel.
3. Michael J. Miller – (171 5B Rd.) Already has 4 dog kennels within a half mile. It gets annoying with barking dogs. Opposed to the request.
4. Lonnie Borkholder – (535 5B Rd.) In favor of the request. Will allow his family to make a living off his land.
5. Adam & Jill Young – Opposed to the request. Doesn't believe family pets should be kenneled. There are already too many kennels in the area. Thinks this is a puppy mill. There are already dogs in shelters needing homes.

Mr. Berger made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

Mr. Adley reminded the board and public that before the last meeting Ms. Cox from the Humane Society along with Mr. Adley went to the applicant's residence unannounced to gauge the animals and facility. Especially since the facility will be growing from 12 dogs to 45 dogs. We wanted to make sure the current 12 dogs were receiving adequate care. It was in good shape and clean. Ms. Cox extended high praises for the condition.

Mr. Slabaugh advised the board that there is another dog kennel directly across the street from him. He is wanting to go out of business and the plan is for them to bring his dogs to the Slabaugh's. That will eliminate one kennel from the area.

Mr. Wickizer made a motion to approve 19-BZA-38 SLABAUGH, David - A tabled request for a Special Use to amend Special Use (16-BZA-16) to permit kennel to house 45 mature dogs (55 lb Boxers and Golden doodles) plus offspring, turning litters 2x per year. Pups are kept on site until 8 weeks of age; located at: 430 5B Road, Bremen, IN German Twsp., Zoned A-1 with the following stipulations:

1. TRC Recommendation – Answered within the Business Plan provided
2. Business Plan Provided – Business plan is written above.

Seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fourth item of business was 19-BZA-39 WALKER, Joe & Mary & Jimmy & Jennifer Walker – A request for a Variance of Development Standard to allow a reduction in the 1,320' residential setback of a CAFO, located: 7402 7th Rd., Plymouth, IN Center Twsp., Zoned A-1. Jimmy & Jacob Walker were present to represent their request. Mr. Adley presented the findings of fact.

The proposed hog barn will not exceed 4400 wean to finish pigs which tips the barn from a smaller scale hog barn into a CAFO. This scale of operation requires the structure to be setback 1,320' from residences that are not on the subject property. Immediately adjacent to the property is a home owned by a family member of the subject property. Across the street to the south, there is a house that is also within the setback. The next closest residence is approximately 1,800' Northeast of the proposed barn.

Recommendation:
Based on the information provided staff took the application before the technical review committee where a favorable recommendation was given 2-1. Therefore, staff recommends approval of the proposed setback reduction.

What is a CAFO per Chapter 13, Definitions:

CAFO Concentrated Animal Feeding Operations

IDEM administers the National Pollutant Discharge Elimination System (NPDES) permit program required by the USEPA Clean Water Act (CWA). Part of that nationally administered program addresses activities that cause or can cause discharges of contaminants to waters of the state. In December 203, EPA released a Final regulation for CAFO's. These farms are defined as point sources by the CWA and are required to obtain permit coverage. IDEM has developed a general permit CAFO regulation (327 IAC 15-15) which went into effect on February 26, 2004. The CAFO NPDES permit process and operational requirements are slightly different than for CFO's.

The following list depicts the animal species and their threshold numbers for needing an NPDES permit. Farms with fewer animals can be designated a CFO are required to get a permit if they have or if it is determined they will pose a significant threat to have, a discharge or pollutants from the production areas or waste storage facilities.

CAFO Animal Threshold Numbers – 2,500 swine above 55 pounds

The Walker's response to developmental standards

1. The Walkers are aware that they will need to get an IDEM permit before they will be able to pull a permit.
2. The Walker's will obtain a "Route Permit" from the Marshall County Highway Department.
3. The Walker's will register the well drilled for this CAFO
4. An annual well water test will be taken.
5. The manure will be incorporated within 24 hours or injected.
6. There will be no irrigation of manure.
7. The Walker's will install required shelterbelts.
8. There have been no violations at the property.
9. The site is not located in a flood area.

Variance Reasoning

1. The approval will not be injurious to the public health, safety, and general welfare of the community.

   The site will be IDEM permitted and regulated. The new construction prints will be required to be built to strict IDEM requirements. Therefore, this operation will not be injurious to the public health, safety, morals and general welfare of the community. Additionally, the producer has a long driveway to keep the barns back off of the road and the prevailing winds will be from the SW in which there is only trees and farm ground.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because *this farm is located in a rural area. One of the landowners to the south is Jimmy and his wife Jennifer and the other has out buildings and grain bin. By adding a hog barn to the existing farm, the land value of the adjacent properties will not be affected since there is mainly agricultural ground on the surrounding properties.*

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

   The producer would like to have a hog barn for Co Alliance. This barn will have a maximum of 440 wean to finish pigs therefore requirement an IDEM CAFO Permit. This had triggered the 1320 ft residential setback.

When asked for the confirmation of acreage the applicant stated they had 29 acres. The plan is to spread some of the manure on their land as well as others who said they accept the spreading of manure on their land. It was stated that 200 acres (100 to spread and 100 to alternate) would be required to spread manure for the amount pigs planned for. The pit will hold one million gallons of manure.

The plan is to make his property productive. Currently works for a fertilizer company as well as his son. The barn will be owned by the Walkers. The Walkers will also supply all the labor. The hogs and feed will come from Co-Alliance.

This structure is state of the art. It will have 32 fans and the pit is all underneath the building and is enclosed. The hogs are kept all inside. No manure will be kept outside. The manure can only be spread on the ground twice a year.

Regular traffic will come from feed trucks. They expect to have 7 to 8 loads a week. Bringing in and taking hogs away will be once every six months.

The board questioned if a neighboring property owner would want to build within that 1,320 feet after the CAFO is approved what would be required. Mr. Adley stated that the person requesting to build within that distance would have to file for a Variance of Developmental Standard. If, or when, such a variance is granted by the Board of Zoning Appeals, the party obtaining the variance shall be required to either attach to the recorded deed of conveyance a covenant protecting the CFO or CAFO's rights to operate, or if no contemporaneous conveyance is contemplated, incorporate a similar recorded covenant by cross referenced affidavit in aid of title.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. Mike & Terry Large 7165 Hickory Rd. Also speaking for parents Roger & Darlene Large. Major concern is the smell. The distance between the building and their parcel is approximately 1800 feet. Own's adjacent property to the Walker's as well. If he ever wanted to build on that ground, he believes it will devalue that property.
2. Jeff Berger 6606 Ironwood Rd. Has a piece of property adjacent to the Walker's. It's his believe that the value of his property will decrease. Was in the process of signing a land contract and the person wants to back out. Whenever there is an abundance of water that area of road is always flooded. Said they are good neighbors. Would like additional time to research more. Requested that the board table the request.
3. Darlene Large 7293 Hickory Rd. Stated that the road just west of the Walker's is closed a lot due to water and even to the east. It's been closed for days up to weeks. Doesn't feel they have near enough land to spread all the manure. Concerned about the smell as well as property values.
4. Dean Weldy 6834 Ironwood Rd. Lives west about a half mile away. Agrees with all the flooding. Also agrees with all the traffic of big trucks the roads will turn into gravel. Just built a brand-new home with pool. What's going to happen to his property values. Not sure if he's going to be able to enjoy being outside in the pool with the smell. The hog farm on 331 in Wyatt used to smell so bad you didn't even want to drive by the property. Would you want that in your backyard? Said it's a no-win situation for everybody.
5. Gina Gaines Wissler 7832 E 7B Rd. Likes the family but concerned the traveling on the road and the flooding. When it floods it all comes down her property and to the creek to the yellow river. Has been stranded for several days before. Concerned about their well water. Has a daughter that lives next to a chicken barn and has lots of flies. Mostly concerned about property values.
6. Joe Skelton 3329 Lakeshore Has a concern about the condition of 7B and Veterans Parkway after it was just constructed. Another thing that's a concern is the odor.
7. Andrew Berger 12628 Peach Rd. Owns a nearby property. Has a concern about airborne illnesses with this.
8. Steve Klingerman 7402 7th Rd. Correspondence. Has lived at this neighboring property for 35 years. The idea of a hog barn will bring down the value of their homes along with smell, noise and pollution. Against the request.
9. Dean Weldy 6834 Ironwood Rd. Correspondence. Has a concern with the smell, what it will do to their water supply, flies, mosquitos, bugs in general, cleanliness of the farm, home value as it will be behind our brand-new home.
10. Unknown letter sender Against the request because the area floods, the smell and air quality and property values.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

Mr. Walker doesn't deny there is flooding in the area. West of their house in the wooded area where someone is wanting to build a house is low area and floods all the time. That area can stay

flooded several weeks of the year. Closer to the Yellow River it floods once or twice a year. His property is between those two areas. There is a low area that runs next to Mikes woods that has been flooded. Where the hog barn is at it is higher ground and sandy. There is low ground in front of the hog barn that will have to be tiled to drain it properly.

The barn will be totally contained that includes the pit as well. Doesn't see how there would be any contamination. The barn concrete will be sprayed to seal. As far as odor there will be some odor. Doesn't believe it will be as bad as some think. They've looked at three other operations. Two of them are in Etna Green and while walking around their facility hardly smelled anything. Wanted to restate that everything will be contained in the building. Any waste that will be composted to spread will be either in the hog barn or another building.

There will be feed trucks up and down the road no different than other agricultural animal raising facility.

Mr. Adley reminded the board and the public that today's hearing is for the setback reduction ONLY. Their CAFO request is a permitted by right use within the A-1 district. The board can only look at the case request which is the setback reduction that involves two residences within that 1,320' from a residence. The current setbacks are 800-900'. The permission of the facility is meeting the development standards. The only one they didn't meet was the setback which is the reason for the variance. The second portion of the approval is through IDEM. After that once they apply for a building permit, they will have to supply all of that information from IDEM, the route plan, any additional odor control measures and those sorts of things will need to be submitted before the issuance of the building permit.

Mr. Gustafson asked if they wanted to put in a hog farm of 2,500 or less could they do it without any additional approvals? Mr. Adley responded with a yes.

Mr. Bennett's concern with the whole request is for future landowner's who want to build in the future. In that they will be restricted on their own property and will have to come before this board to receive approval first.

After a discussion the board was in agreement that the only item up for determination is the setback reduction. The board was reminded that the two-property owner's have given their written permission for the requested use. The odor control plan will be reviewed and approved by IDEM not this board.

Mr. Berger made a motion to table the request. Motion died due to a lack of a second.

Mr. Wickizer made a motion to approve 19-BZA-39 WALKER, Joe & Mary & Jimmy & Jennifer Walker – A request for a Variance of Development Standard to allow a reduction in the 1,320' residential setback of a CAFO, located: 7402 7th Rd., Plymouth, IN Center Twsp., Zoned A-1 along with a statement that this request was just for the reduction in the setback not whether a CAFO should be allowed. The residences within that setback all signed a statement saying they had no problem with the request. Motion seconded by Mr. Miller. Motion carried with voice vote 4-1.

The fifth item of business was 19-BZA-40 WILMA, David & Janice- A request for a Variance of Developmental Standard to build 20'x60' pole barn that is 5' from the property line instead of the required 10' or 10% located at 689 12th Rd, Plymouth IN Zoned A-1. Mr. David Wilma was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking approval for the already built 20'x60' pole barn 5' from the property line. The applicant indicates that this is the "only flat spot" on the property.

Recommendation:
Based on the information provided and that the requested was previously approved but a building permit was not approved in a timely fashion and the application was taken before the TRC with a favorable recommendation with the condition that there be a fine for construction without a building permit, staff would recommend approval with a fine of $120 (3 x the permit fee of $40).

The applicant stated that there was a lack of communication between the contractor and himself and accepts responsibility.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Berger made a motion to approve 19-BZA-40 WILMA, David & Janice- A request for a Variance of Developmental Standard to build 20'x60' pole barn that is 5' from the property line instead of the required 10' or 10% located at 689 12th Rd, Plymouth IN Zoned A-1 with the stipulation that a fine be assessed for $120 for starting without a permit, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The sixth item of business 19-BZA-41 MOORE, Thomas & Karen – A request for a Special Use to allow a home-based business of woodworking and metal working equipment to manufacture products in an existing building, located at: 18208 7th Rd., Plymouth, IN Zoned A-1. Mr. Thomas Moore was present to represent his request. Mr. Adley presented the findings of fact.

The applicant indicated that he would be the only employee with no new buildings and will be operating Monday through Friday 8-5. When discussing what he will be creating, he indicated it will be more of general business rather than making a specific product like most other businesses. It will be like contracted/commissioned work.

Recommendation:
Based on the information provided and the Technical Review Committee review which recommended approval of the proposal with the conditions that personnel conditions and waste removal be addressed. Staff therefore recommends approval of the proposal with the condition of waste being addressed.

The proposed business will not have an outdoor sign. The equipment used in the building will be a lathe, a mill, a surface grinder and a cut off saw. The applicant's original business was sold five years ago. Since then he's picked up a few pieces of equipment to start another business. The

plan for scrap will go to a scrap yard. If the business were to grow a dumpster would be placed on the property for disposal. The plan is not to have laser coolant, but to have air mist that is not bad for your health. If this laser coolant is required in the future Safety Clean would be used to be compliant.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Richard Finkbeiner – 6909 Rose Rd. Has no problem with the request whatsoever. They support it.
2. Deborah Nifong, Jonathan Miller, Katlyn Day and David Haag - 7047 Plymouth Laporte Tr. – Mr. Tom Black representing the above named said they have no concerns with the Moore's request as they have been good neighbors. Their concerns are the future it may hold if and when Mr. & Mrs. Moore transfer ownership. They do not want to see an expansion of the now small business into a larger more invasive enterprise.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

Applicant has no intention of growing any bigger at this location. If that were to happen, he would move to an approved location.

Mr. Wickizer made a motion to approve 19-BZA-41 MOORE, Thomas & Karen – A request for a Special Use to allow a home-based business of woodworking and metal working equipment to manufacture products in an existing building, located at: 18208 7th Rd., Plymouth, IN Zoned A-1, with the following stipulation:

1. Manufacturing waste be disposed of properly as required by IDEM whether it's through Safety Clean or someone else approved.
2. Applicant is the only employee.
3. This Special Use only applies to applicant, Mr. Thomas Moore only.

seconded by Mr. Bennett. Motion carried with a voice vote 5-0.

The seventh item of business 19-BZA-42 EB REAL ESTATE HOLIDNGS (Steve Zbieranski)- A request for Variance of Development Standard to allow the split / combination of two parcels that will not meet the 1:3 width to depth ratio on parcels 50-43-16-000-006-000-005 and 50-43-16-000-010-000-005 on 5B Rd./Grape Rd. German Twsp., Zoned A-1. Mr. Fred Eby and Mr. Steve Zbieranski were present to represent their request. Mr. Adley presented the findings of fact.

There are two subject parcels that are associated with the proposed subdivision. There is a lot line adjustment between the two parcels to solve the yellow river dividing the two parcels making the parcels more accessible via the remainder of the tracts. Then there is a subdivision of the eastern side of the yellow river into 3 tracts, two new lots and one residual. One tract is 2.68 acres while the other is the wooded portion along the eastern side of the Yellow River which is 24.25 acres. The lots that are immediately abutting the yellow river though do not meet the 1 to 3 width to depth ratio.

Recommendation:
Based on the information provided the recommendation of the approval from the Technical Review Committee, staff recommends approval with consideration given to the fact that the environmental features that bisect the lots (Yellow River) have created this width to depth issue.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Miller seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Miller made a motion to approve 19-BZA-42 EB REAL ESTATE HOLIDNGS (Steve Zbieranski)-A request for Variance of Development Standard to allow the split / combination of two parcels that will not meet the 1:3 width to depth ratio on parcels 50-43-16-000-006-000-005 and 50-43-16-000-010-000-005 on 5B Rd./Grape Rd. German Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

New Attorney/Contract Signing

Mr. Bennett made a motion to have the President and Secretary review and sign the contract for the new board's attorney, seconded by Mr. Miller. Motion carried by acclamation.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

September 10, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, September 10, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Mark Wickizer and Matt Miller, Plan Director Ty Adley, Secretary Lori Lowry and interested parties. Member absent was Trent Bennett.

The first item of business was the review of the minutes from the August 13, 2019, meeting. Mr. Wickizer made a motion to approve the minutes as written, seconded by Mr. Berger. Motion carried by acclamation.

The second item of business was 19-BZA-43 HUTCHINGS, Zaccheus & Leslie - A request for a Variance of Use to allow a small-scale production brewery in an existing building, located at: 11469 Iris Rd., Plymouth, IN Zoned A-1. Mr. Zac Hutchings was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is to scale up his current personal brewing operation to a small-scale production brewery that will be operated out of an accessory building on his property. The operation will be 90% wholesale producing 4-5 barrels per week. Down the road the plan is to relocate to a property in town, where he would serve food, but for now he is looking at just getting the beer out to feel out this area and how the community takes to his beer. The nearest residence is approximately ¼ mile to the south. The business is slated to have one employee during start up and will begin operations at 7:00am with an unidentified closing time. Traffic generated to the site will be minimal, with most items being delivered or retrieved using the applicants enclosed trailer or various parcel services. There will be an approximate monthly delivery by freight.

Recommendation:
Based on the above information the impact to the local area should be minimal. Staff would recommend the following conditions: 1. Limit to 2 employees 2. Signage is limited to 8 square feet 3. No outside storage (does not include trailer) 4. Existing 36.64 pole building not to expand for operations 5. Business hours to be Monday – Saturday 7am – 7pm. The TRC recommendation was to approve with the following conditions: 1. State septic system approval 2. Necessary state approvals for brewery. ADDITIONAL INFORMATION: Business Registration with Indiana State Department of Health Wholesale Food Protection Program.

Mr. Hutchings has been home brewing for about ten years. The plan is to do the same just increase production from 5-10 gallons at a time to one barrel which is 30 gallons. The waste is very minimal. The waste would be spent grain. This grain has no alcohol or sugars in it. It's currently fed to his goats. Each barrel will produce between 50-100 pounds of spent grain. If this grain were to sit in a pile for several days it could produce an odor. Mr. Hutchings has no plan to accumulate this grain. He doesn't have a problem with removing it each week as asked by Mr. Wickizer.

All cleaners currently being used are environmentally safe. Any of this waste would drain into a flow well. It's a basin in the ground that collects any particles of grain that doesn't plug up the leach bed.

The board asked Mr. Hutchings if he would be able to comply with all recommendations. He said yes. There is currently a bathroom in the barn. Years ago, when the building was built Mr. Sabo from AK Industries put in a test system for him. Which is a tank with a pump in it.

Ms. Stinson, Marshall County Health Administrator, stated that any system with a commercial process has to go through Indiana State Department of Health. The current system Mr. Hutchings is using the Health Department has no permit for. What was described isn't a legal system. Ms. Stinson will give the applicant contact information for the state. The business will also be required to have approval from the Indiana State Department of Health Wholesale Food Program.

Mr. Hutchings wants to see how feasible this is in a smaller scale before he makes a large financial investment.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Joyce Roberts 11574 Jute Rd. - What happens when you can't get rid of the waste? Also has a concern about property values.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

Mr. Hutchings commented to the concern of additional spent grain he couldn't use. There's already been discussions with a neighboring farmer John Bachtel and he said he would gladly take the spent grain.

There will be no outside employees other than Mr. & Mrs. Hutchings.

While talking about when Mr. Hutchings might move to a commercial location, Mr. Hutchings stated the limit would be between 5 to 6 barrels.

Mr. Wickizer made a motion to approve 19-BZA-43 HUTCHINGS, Zaccheus & Leslie - A request for a Variance of Use to allow a small-scale production brewery in an existing building, located at: 11469 Iris Rd., Plymouth, IN Zoned A-1 with the following conditions:

1. Plan Commission Recommendation – Limit of 2 employees (owner and wife), signage is limited to 8 square feet, no outside storage (does not include trailer), existing 36x64 pole building not to expand for operation, and business hours of Monday through Saturday from 7am – 7pm.
2. TRC Recommendation – State approved septic system and necessary state approvals for a brewery.
3. Weekly disposal of waste (applicant plans to dispose of daily)
4. Limit of 5 barrels per week.
5. Wholesale only

Seconded by Mr. Berger. Motion carried with a voice vote 4-0.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

October 8, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, October 8, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, David Hostetler, Mark Wickizer and Matt Miller, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the September 10, 2019, meeting. Mr. Miller made a motion to approve the minutes as written, seconded by Mr. Wickizer. Motion carried by acclamation.

The second item of business was 19-BZA-44 HOCHSETLER, Norman – A request for a Special Use to allow a homebased business that produces wood products to supply to the RV industry; located at: 192 Plymouth Goshen Tr. Nappanee, IN 46550, Zoned A-1. Mr. Norman Hochstetler was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is currently operating a woodworking business and supplies items to the RV industry. The business also provides custom engraving on a variety of mediums. The business has standard business operating hours of 5:00 am to 1:00pm Monday through Friday. The business currently has 5 full time and 1-part time employee. The property appears clean and well-kept for the business.

When asked if the construction will require a Construction Design Release Mr. Adley responded that it would be up to the Building Commissioner. The board can make that a part of the motion if they choose.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Hostetler. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Miller seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Wickizer made a motion to approve 19-BZA-44 HOCHSETLER, Norman – A request for a Special Use to allow a homebased business that produces wood products to supply to the RV industry; located at: 192 Plymouth Goshen Tr. Nappanee, IN 46550, Zoned A-1 with the following stipulations:

1. Business operation hours 5:00am – 2:00pm Monday through Friday
2. Sign – 2x4 existing sign
3. 7 employees

4. Construction Design Release if required by the Building Commissioner

Seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The third item of business was 19-BZA-45 FRITZ Tamra – A request for a Variance of Development Standard to allow a reduction in front yard setback from the required 30' to 19.5' for a porch addition and a reduction in side yard setback from the required 10' to 8.9' to build a small addition to the existing garage; located at 4281 Lake Shore, Bremen, IN Zoned L-1.

The applicant was not present; therefore, Mr. Berger made a motion to table the request until the next meeting, seconded by Mr. Hochstetler. Motion carried by acclamation.

The fourth item of business was 19-BZA-46 HANYZEWSKI, Troy – A request for a Variance of Development standard to reduce the lakeside setback from the required 45' to 30 ½ 'to meet the requirements of the flood plain setback; located at: Parcel # 50-42-01-000-134-001-009, German Twsp., Zoned L-1. Mr. Hanyzewski was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new home on the property and is requesting to reduce the setback of the rear portion of the proposed new home.

The proposed patio on the lakeside of the home will be concrete and will be covered. The distance from the lake to the patio will be approximately eighty feet. The adjacent properties will not be affected as the proposed house sets back closer to the road than the neighboring houses.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Hostetler. Motion carried by acclamation. Motion carried by acclamation.

1. Susan Filewicz – 3746 W. Shore. Bremen - Neighboring property owner in favor of the request. They have no problems with the proposed porch's location.

Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Wickizer made a motion to approve 19-BZA-46 HANYZEWSKI, Troy – A request for a Variance of Development standard to reduce the lakeside setback from the required 45' to 30 ½ 'to meet the requirements of the flood plain setback; located at: Parcel # 50-42-01-000-134-001-009, German Twsp., Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fifth item of business was 19-BZA-47 HOCHSTETLER, Carol & Kim – A request for a Variance of Development Standard to reduce the lakeside setback from the required 45' to 18' to the sea wall and a north side yard setback from the required 10'/10% to 7' to build a deck on the proposed new home; located at 4016 Liberty St., Bremen, IN Zoned L-1. Mr. Kim Hochstetler was present to represent his request. Mr. Adley presented the findings of fact. Mr. Kim Hochstetler was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a home addition and under 19-BZA-27 received approval with a couple of conditions including but not limited to the approval for setback reductions. Which included the reduction of the front yard setback from 30' to 17', side yard reduction to 8' and rear yard setback from 45' to 35'.

The original site plan and request didn't include the proposed deck on the lakeside and steps on the side yard. The applicant has applied for a Letter of Map Amendment with DNR and to date we haven't received our copy. Not having received this LOMA back doesn't give us the measurement from BFE that is needed. Therefore, the Plan Director and TRC's recommendation is to table this request until the LOMA is received and to deny the second reduction in side yard setback.

Mr. Adley re-iterated that being in the flood plain doesn't eliminate the possibility to build it just requires you to build according to DNR's regulations. This LOMA will reduce all the requirements and it will be more cost effective. This is the applicant's choice.

Mr. Hochstetler stated that the reason he didn't include the deck on his first drawing and request was that it was an existing deck and he didn't think it was necessary since it was existing. He also said that multiple county officials didn't tell him that the deck was part of the house was his reason for not adding it originally.

Mr. Hochstetler claims that the ground is above the flood plain. The actual LOMA hasn't been received yet.

The board asked why the parcel layout from the June meeting to today's meeting is so different. Mr. Hochstetler's comment was "it's the same size".

The side yard setback reduction of one foot was discussed. Mr. Hochstetler was asked how he could build the steps with one foot. He said it wasn't one foot it was three feet. When the property lines were adjusted, he added a couple extra feet to the parcel.

When asked what the reason for denial of the requested side yard reduction was that he already received a side yard reduction from the board and he created his own hardship.

Mr. Wickizer asked the applicant if he would be willing to table to request for a month pending the LOMA and his response was no.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. Mike Gresgorik – 65595 Primrose South Bend – Owns the property adjacent to Mr. Hochstetler. Supports his request for the variance. Doesn't see a problem and his house sets farther ahead. It won't hinder his view of the lake. Said that the lake won't flood because of the damm.
2. Troy Hanyzewski – 26258 Stanton Rd., Walkerton, IN - Also in favor of the request.

Questioned when the 45' flood plain rule came into effect? Said that you can build a house in a flood plain as he has a house built in a flood plain in South Bend. Plus, almost all the variances get approved anyway so why have the rule.

The board explained again that they weren't prohibiting him from building in the flood plain all he would have to do is comply with the regulations set forth by DNR which is a state law.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

Mr. Wickizer made a motion to approve 19-BZA-47 HOCHSTETLER, Carol & Kim – A request for a Variance of Development Standard to reduce the lakeside setback from the required 45' to 18' to the sea wall and a north side yard setback from the required 10'/10% to 7' to build a deck on the proposed new home; located at 4016 Liberty St., Bremen, IN Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 3-2 with Mr. Hostetler and Mr. Gustafson voting against.

The seventh item of business was 19-BZA-48 BOKHOLDER, Lonnie – A request for a Variance of Development Standard to allow a combination of acreage into one parcel being 225.75'x1,650' that will not meet the required 1:3 width to depth ratio; located at: 35 5B Road, Bremen, IN German Twsp., Zoned A-1. Mr. Loren Sloat, Attorney for the applicant, was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to purchase a portion of land behind their property and will create a parcel that is approximately 226' wide by 1650' deep for pasture.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation. There being no business before the board Mr. Wickizer moved and Mr. Hostetler seconded the motion to close the hearing. Motion carried by acclamation.

Mr. Wickizer made a motion to approve 19-BZA-48 BOKHOLDER, Lonnie – A request for a Variance of Development Standard to allow a combination of acreage into one parcel being 225.75'x1,650' that will not meet the required 1:3 width to depth ratio; located at: 35 5B Road, Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

Other Business

Mr. Bennett has elected to step down from his position on the board immediately. The office is in the process of finding his replacement. We are working with the County Commissioner's to find this replacement and hope to have it filled by the November meeting.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

November 12, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, November 12, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, David Hostetler, Mark Wickizer and Jeff Kutch, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the September 10, 2019, meeting. Mr. Wickizer made a motion to approve the minutes as written, seconded by Mr. Berger. Motion carried by acclamation.

New member, Jeff Kutch, was sworn in to complete the term (December, 2021) of previous member, Trent Bennett.

Mr. Wickizer made a motion to nominate Matt Miller as Vice President, seconded by Mr. Gustafson. Motion carried with a voice vote 5-0.

The third item of business was 19-BZA-45 FRITZ Tamra – A request for a Variance of Development Standard to allow a reduction in front yard setback from the required 30' to 19.5' for a porch addition and a reduction in side yard setback from the required 10' to 8.9' to build a small addition to the existing garage; located at 4281 Lake Shore, Bremen, IN Zoned L-1. Mr. Jerry Meister, 4113 Lipton St., Bremen, was present to represent the applicant, Ms. Fritz. Mr. Adley presented the findings of fact.

The subject property is seeking a series of home additions, two of which do not meet the minimum setback requirements for the district. The foyer addition and garage addition do not meet the standards for the side yard and front setbacks.

Based on the information, and review by the Technical Review Committee whom recommended approval with the condition of detailed site plan and soil erosion control be in place. Staff would therefore echo the Technical Review Committees recommendation of approval with the same conditions.

The proposed porch addition will give the applicant room for a closet right inside the front door. Extending the front porch will protrude some past the existing garage.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Miller. Motion carried

by acclamation. There being nobody to speak for or against Mr. Wickizer moved and Mr. Berger seconded the motion to close the public hearing.

The board looked at the overview of the property and properties surrounding and took into consideration the average of front yard setbacks.

Mr. Wickizer made a motion to approve 19-BZA-45 FRITZ Tamra – A request for a Variance of Development Standard to allow a reduction in front yard setback from the required 30' to 19.5' for a porch addition and a reduction in side yard setback from the required 10' to 8.9' to build a small addition to the existing garage; located at 4281 Lake Shore, Bremen, IN Zoned L-1 with the following stipulation:

1. TRC recommendation - Technical Review Committee whom recommended approval with the condition of detailed site plan and soil erosion control be in place. Staff would therefore echo the Technical Review Committees recommendation of approval with the same conditions.

Seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fourth item of business was 19-BZA-49 MOSSMAN, Kitty - A request for a Variance of Developmental Standard to reduce the required 45' BFE rear yard setback to 18' from BFE in order to build a residence, located at: 5018 W. Shore Dr. Bremen, German Twsp., Zoned L-1.

The applicant has requested this case be withdrawn.

The fifth item of business was 19-BZA-50 CRUMP, Dezerea – A request for a Special Use to allow a single wide trailer, located at: Parcel # 50-52-95-402-405-000-010, North Twsp., Zoned T-1.

The applicant didn't show for the hearing. Mr. Wickizer made a motion to table this request, seconded by Mr. Miller. Motion carried by acclamation.

2020 Proposed Calendar

Mr. Adley presented the proposed Board of Zoning Appeals calendar. The Plan Director explained to the board concerns of the 15-day deadline to turn in requests. Mr. Adley requested that the board move the submittal deadline to the meeting prior. This will help advertising concerns and will allow the board notice if there will be a meeting the following month.

Mr. Wickizer made a motion to approve the 2020 Proposed Board of Zoning Appeals calendar, seconded by Mr. Miller. Motion carried by acclamation.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer

December 10, 2019
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, December 10, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Dan Voreis, Mark Wickizer and Jeff Kutch, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the November 12, 2019, meeting. Mr. Wickizer made a motion to approve the minutes as written, seconded by Mr. Berger. Motion carried by acclamation.

The second item of business was 19-BZA-50 CRUMP, Dezerea – A request for a Special Use to allow a single wide trailer, located at: Parcel # 50-52-95-402-405-000-010, North Twsp., Zoned T-1.

Ms. Crump wasn't present for the meeting. M. Wickizer made a motion to table this request until the January, 2020 meeting, seconded by Mr. Berger. Motion carried by acclamation.

The third item of business was 19-BZA-51 SELLERS, Daniel - A request for a Variance of Development Standard to reduce the right of way setback from the required 30' to 14' from the road, located at: 20742 S. Lake Dr., Walkerton, IN 46574, Zoned L-1. Mr. Daniel Sellers and Ms. Maralee Lockridge were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the front yard setback in order to place a carport for wife's car as a wind break. The adjacent neighbor was approved with a reduction to 16' from the ROW. There is a larger tree located towards the edge of the road as well as the parcel is located just after a curve in the road. Many of the lakes in Marshall County are experiencing the transition of part time/ vacation homes to full time residences which requires different types of amenities/accommodations.

Recommendation: Based on the information provided and the requirements of the Ordinance and context of the lot, staff would recommend denial of the proposed setback reduction to 14' from the road.

Mr. Gustafson questioned whether the shed on the Furgye property has been moved back to the board's requirements. The neighbor stated that it was moved back to his knowledge.

Mr. Sellers girlfriend is a cancer survivor and has neuropathy and this carport would help her immensely. Her car is 13'3" and has made sure she will have a good line of sight to back out. The plan would be to have a 4' walkway directly in front of the planter and the carport directly adjacent to it.

The board discussed the Furgye property and if their shed was moved back closer to the well as requested.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Kutch seconded the motion to close the public hearing.

During discussion Mr. Adley explained that the proposal is 14' from the edge of the road and the standard parking space is about 8'x18'. There is no other adjacent property owned by the applicant. Mr. Wickizer suggested that the carport be moved 3' closer to the house which would allow him 17' from the road. The applicant seemed to think he could make that work.

Mr. Wickizer made a motion to approve 19-BZA-51 SELLERS, Daniel - A request for a Variance of Development Standard to reduce the right of way setback from the required 30' to 17' (amended by the board from the originally requested 14') from the road, located at: 20742 S. Lake Dr., Walkerton, IN 46574, Zoned L-1, with the following conditions:

1. **Building size is no bigger than 12'x15'**
2. **17' off the road**

Motion seconded by Mr. Berger. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

The fourth item of business was 19-BZA-52 SHRADER, Jack & Gala - A request for a Special Use to allow the construction of an apartment in the existing garage to care for an elderly parent; located at: 12421 Pine Rd., Plymouth In, West Twsp., Zoned A-1. Mr. Jack Shrader was present to represent his request. Mr. Adley presented the findings of fact.

Based on the information provided the applicant has an existing pole barn garage that they would like to renovate a portion of (750 sq. Ft.) to create the apartment. There is a growing movement in addressing the aging population that has a desire to be independent, but a need to keep them close. Different jurisdictions have taken a number of perspectives of how to address this growing need for diverse housing options. The concern though is that this is a tipping point in the United States more people every day that are reaching the age of retirement and are becoming more dependent due to ailing health and increase in property ownership costs. Ways that this is being addressed is through density increases.

Recommendation: Based on the information provided and how the Ordinance is written staff would recommend denial.

The applicant has an elderly parent that lives alone in another state and is needing additional care. He would like to convert a portion of the garage into living space that meets all the

requirements by the county and code. The outside of the structure will look just like a pole barn and no new additional address will be requested. After he is no longer in need of caring for his parent, he has no need to keep the area as a residential space. Has no problem making it back to a storage building as the property would be worth more as a storage building than residential space.

As far as a space for septic there is plenty of room behind the storage building for the proposed new septic system.

Mr. Kutch questioned whether this would be considered two separate residences. Mr. Adley responded that it would be considered two residences because the second building is also self-sustained.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation.

1. Tom Erpelding – 15208 Happy Acres Tr – Would be happy to see him do what he wants to. He's already cleaned the property up and looks like a park compared to what it used to look like. He's really making it look nice. Has no objection. His son also has a property next door and also has no objection.

Mr. Wickizer moved to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

The board questioned whether the board has approved the site for a septic permit. Mr. Shrader stated that he has not talked specifically with the Health Department, but has talked with septic contractors. They wanted to wait for approval from this board before moving forward.

Mr. Shrader explained that the existing house when bought was quite small and it only has two bedrooms and the house is just not big enough for three people to live in it. Otherwise, they would have had his mother move into the house.

Mr. Shrader works in Laporte as an engineer and plans to work there another ten years before he retires. Once he retires, they plan to sell the home and move back to the Carolinas. But before moving he has no objection removing the upgraded portions of the pole barn to make it a residence.

Mr. Wickizer made a motion to approve 19-BZA-52 SHRADER, Jack & Gala - A request for a Special Use to allow the construction of an apartment in the existing garage to care for an elderly parent; located at: 12421 Pine Rd., Plymouth In, West Twsp., Zoned A-1 with the following conditions:

1. **Septic approved by the Marshall County Health Department**
2. **Cannot be occupied by any other person other than Geneva Ross and once she no longer is in need of this space the residential area of the building must be disassembled so it can no longer be occupied and inhabited.**

Seconded by Mr. Kutch. Motion carried with a voice vote 5-0.

The fifth item of business was 19-BZA-53 HOLOWATUK, Robert - A request for a Special Use to allow a temporary placement of a 14x60 single wide mobile home for the family to live in during the rebuild of their home from a fire, located at: 107 Church St., Lapaz, IN 46563. Mr. Robert Holowatuk was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to place a residence on an adjacent parcel that is owned by the applicant until main house is completed. The ordinances do not address temporary homes

Recommendation: Based on the information provided and notes provided by the Town of LaPaz, staff would recommend to table to the matter until the applicant were to receive a favorable recommendation from the Town.

The applicant would like to stay on the residence preferably over an apartment somewhere as he has a couple dogs and his son is finishing his senior year in high school at Laville High School. Currently the plan is to replace the home that burnt with a modular in hopefully a month. The plan is to use the same foundation, but a new home.

The home was damaged by fire on November 5th. The insurance company is ready to move and this company has worked with State Farm to place a temporary trailer there until the home is placed and will be immediately removed.

Rochester Homes is working with the Insurance Company and they are hoping to be ready to order the end of next week. They say it takes three months to build the home.

Mr. Adley stated that the Town of Lapaz is not in favor of the request as they have a past due balance. Plus, the Town Council would like for Mr. Holowatuk to come to the meeting to discuss the questions the town has and time line that is associated with this before giving a favorable recommendation.

When asked for confirmation of the County having authority over the Town of Lapaz, Mr. Adley stated that the Town of Lapaz is the only municipal entity that the County regulates. All other towns are self-regulating.

Mr. Kutch asked Mr. Holowatuk if he could get a plan/timeline from the insurance company of their plans. Mr. Holowatuk agreed to contact his insurance adjuster.

Mr. Wickizer made a motion to open for public hearing. Motion carried by acclamation.

1. Steve Guriel – 10875 9A Road – Owns the apartment building across from the applicant and has no problem with the request. Would like to see that a timeline be added to the approval.
2. James Powers – 515 S. Michigan Rd. – In favor of the request as its temporary and he needs a home.

3. Lorraine Dove – Town of Lapaz sent a letter – Is against the request. Lapaz has had issues in the past with temporary placement and has taken over a year to remove storage containers from the yard. When the town starts approving temporary variances it opens a pandora box of problems. As a taxpayer is against the request.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

When asked the time frame of the temporary trailer Mr. Holowatuk stated that it would be around four months. There are a few options of placement of the trailer as long as its not at the rear of the property where there is a sewage pump station. It could be perpendicular on the southwest side of the home or near the sewage tank is. The trailer will be rented from the insurance company not purchased.

Mr. Kutch felt that one was plenty of time to authorize for the temporary placement of the trailer. The board agreed.

Mr. Wickizer made a motion to approve 19-BZA-53 HOLOWATUK, Robert - A request for a Special Use to allow a temporary placement of a 14x60 single wide mobile home for the family to live in during the rebuild of their home from a fire, located at: 107 Church St., Lapaz, IN, Zoned T-1, with the following stipulations:

1. **Receive Town of Lapaz approval**
2. **The maximum time frame temporary trailer can be on the property is twelve (12) months.**

Seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The sixth item of business was 19-BZA-54 BORKHOLDER, Gene & Brenda - A request to add nurseries and extra covered manure storage tanks that require a 1,320 ft setback from residences, located at: 438 6th Rd., Bourbon, IN German Twsp., Zoned A-1. Mr. Gene Borkholder and Mr. Kevin Murdock of New Paris were present to represent their request.

The applicant is currently operating an AFO with 2 13,000 grower duck barns. There is a proposal to expand the two barns each with a 50’x180' expansion that that will each hold 13,000 nursery ducks. This will put the total ducks at any one time up to 52,000. Going from the existing facility to the proposed will kick in the CAFO standards. All of the standards are or will be met except for the setbacks which is what is currently being requested.

Recommendation: Based on the information provided staff would support the approval of the proposed expansion.

Mr. Borkholder can stay at the same 26,000 ducks without any approvals; however, adding more throws him over the threshold and requires him to meet the 1,320’ setback from residences, said Mr. Adley.

While discussing the odor Mr. Borkholder said that the smell isn't as bad as you think. He has a concrete covered pit with 4x4 holes that he keeps covered. The pit is treated twice a year every time it's pumped a whole new treatment cycle is added. A local farmer takes the manure and injects into the ground in a drag line. The odor is very mild. The barns have a slatted floor where there is a scraper system that travels the length of the barn and dumps it in a trough that goes into a pipe and drains into the tank. It's scraped everyday and very little to no manure is in the barns. There is no bedding as well.

A new tank will be added to cover the front nurseries. The additional one in the back will allow for storage for up to a year. Odor is the worst when it is hauled. When chicken manure is removed it has to be spread on top of the ground which creates an odor, duck manure has to be injected into the ground and leaves little to no odor.

Currently both barns are single stage operations meaning they put day olds on one end of the barn and grow through their cycle. Each barn gets approximately 7 flock rotations a year. This proposal would move that number to 13 flock rotations per year for each barn.

Currently the applicant is not under IDEMS regulations. He voluntarily treats the pits often to do what he can to keep the odor down. He wants to be a good neighbor. If he gets notified from a neighbor about the smell, he immediately looks into it. To help contain the smell Mr. Borkholder has planted trees on the north side of the property.

Tanks are treated with a natural enzyme called "pit perfect". It binds the nitrogen in the manure so it can't be released which creates the smell. The other treatment that can be used is called lagune tabs that breaks down solids so the enzymes can break it down.

Mr. Troyer explained that his business "Maple Leaf" assists in their operations. He understands the concerns of neighbors and the board. They take their concerns very seriously. When there is a call, he is out visiting the neighbor. Never has received calls from anyone in this vicinity. Gene does a remarkable job from being a problem. They can't remain a business if neighbors complain.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer moved and Mr. Voreis seconded the motion to close the public hearing. Motion carried by acclamation.

When asked if the trees were put up because of noise, Mr. Borkholder stated that he was just trying to be proactive if there was any smell as he hoped it might help slow it down.

Mr. Borkholder worked at Keystone in management and took a big pay cut to have the duck barns. Adding the extra duck barn space will allow him extra income and be able to do this full time.

Mr. Wickizer made a motion to approve <u>19-BZA-54 BORKHOLDER, Gene & Brenda -</u> A request to add nurseries and extra covered manure storage tanks that require a 1,320 ft setback

from residences, located at: 438 6th Rd., Bourbon, IN German Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

Mr. Adley reminded the applicant that he would need to apply for these barn permits before the one-year expiration date of this approval.

The seventh item of business was 19-BZA-55 SCHMUCKER, Eugene & Mary - A request for an existing lawnmower sales/repair home-based business; located at: 3084 Beech Rd., Bremen, German Twsp., Zoned A-1. Contractors, John Borkholder and Delbert Troyer were present to represent his request. Mr. Adley presented the findings of fact.

The applicant recently had their barn burn down and it was discovered that the business had not received special use approval. The applicant currently has a building permit in to rebuild the previous structure that was lost. The applicant operates a home-based business that repairs small engines and sell mowers. The proposed business will operate out of a 49x112' structure.

Recommendation: Based on the information provided, staff would recommend approval of the proposed business taking place on the property.

When asked why Mr. Schmucker didn't attend the meeting Mr. Borkholder stated that he was invited, but said that he was busy trying to get things the best he could at home.

During discussion the board had a difficult time making a decision without the property owner present. If the property was cleaned it would be much easier to make a decision.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation.

1. Howard Schmucker – 3208 Beech Rd. – Is a brother to the owner. When Eugene purchased the property from his uncle he added on multiple times to the original structure. Even with the size of the structure he didn't have enough room to store all the mowers inside. After talking with his brother, the plan is to haul most of the used parts to someone else. Believes he is willing to get this cleaned up along with the neighbors help.

Mr. Wickizer made a motion to close public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

Recently three loads have been removed from the property. Their concern is where they will be able to store the mowers at while building the building.

Mr. Voreis made a motion to table this request until January so that Mr. Schmucker could come before the board himself to answer the board's questions, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

Mr. Wickizer stated that he would like to see the whole place cleaned up before any permit is issued.

The eighth item of business was 19-BZA-56 SCHMUCKER, Eugene - A request for a Variance of Development Standard to reduce the north side yard setback to 5' from the required 15' and to allow a storefront for a small engine sales/service business; located at: 3084 Beech Rd., Bremen, IN German Twsp., Zoned A-1. Mr. Eugene Schmucker was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has recently lost their barn due to a fire. In order to rebuild, they are seeking to place the building in a relative same location of the previous barn. The new is larger. The property is approximately 3.25 acres in size.

Recommendation: Based on the information provided, staff would recommend denial of the setback reduction in order for the building to be properly maintained and recommend approval for the store front with contingency of merchandise only being permitted to be shown outside under the awning.

Mr. Wickizer made a motion to table this request until January so that Mr. Schmucker could come before the board himself to answer the board's questions, seconded by Mr. Kutch. Motion carried with a voice vote 5-0.

The ninth item of business was 19-BZA-57 DEMIS, Robert - Requesting a Special Use to allow an existing storage container on the property to be used as a workshop; located at: 20993 8th Rd., Plymouth, IN West Twsp., Zoned A-1. Mr. Robert Demis was present to represent his request. Mr. Adley presented the findings of fact.

The definition of an accessory structure does not permit the use of shipping/cargo containers as permitted accessory structures. The applicant purchased and placed the structure on the property and has been using it as a workshop until the building was brought before staff as a violation.

Recommendation: Based on the information provided, staff would recommend denial.

Has been disabled since 2006 and living on social security/disability. Been an inventor his whole life. This particular invention is to bring a product to market. Ran out of room in the existing garage really quick. For about a year was working outside in the space between the garage and the neighbor's fence. Wasn't feasible to work in the elements all the time. Looked into portable buildings and found one that was suitable for his size and shape and was a cargo container.

Assumed that since the cargo container was temporary to finish the project it would be okay. The applicant understood it was too close to the property line, but thought if someone complained about it he would deal with it then. Went to a business on Highway 30 at the Marshall Starke County Line. It was a 2006 model that was freshly painted that matched the house and garage.

The inspectors that came out to the property seemed to be mostly concerned that it was a storage container and is not made to be a habitable workshop. Mr. Demis was an industrial maintenance contractor. That container seemed to him a space that would work for him. The inside has conduit all throughout. There is an electrical panel with different circuits and receptacles on the walls with lighting down the center of the ceiling. Planned on putting in a service door at each end of the container for safety.

The plan is to not be at this residence long once the invention pans out. Mr. Demis has taken out a $40,000 home equity loan to get the float a domes on the market.

Mr. Wickizer asked what the time frame was when he said "temporary". Mr. Demis stated that he hopes to be ready to load up his product and take it to south Florida in a couple of months.

Mr. Demis stated, "If you guys have a problem with this thing, I'll get rid of it." Mr. Demis didn't see such wording in the ordinance that keeps him from having a storage container. Mr. Adley explained that the ordinance refers to semi-trailers and by the staff's definition and interpretation of this the shipping container would be a portion of this because its life as designed was for shipping or use on a shipping trailer.

After this situation a meeting was set up to meet with the business owner who sold the container and told them containers are not allowed in Marshall County.

When asked if he could build a structure at that same location Mr. Adley explained that he would need to apply for a variance from the side yard and rear yard.

Mr. Demis was hoping for some mercy from the board. He paid $3,800 for the container plus additional moneys spent on painting and electrical.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Voreis. Motion carried by acclamation.

1. Jim Demis – Lives in Hamlet 111 S. Jefferson St. – With him being disabled he's trying to make a life for himself. Was employed in Florida as a HVAC contractor and got hurt. He tries to keep the house and yard cleaned up and said that the shipping container is the nicest looking thing on the property. Offered for the board to come out and look at the property and at the adjacent property that's inhabited by cats and lives in a tent in the yard. He's living on a fixed income, but gives her an electrical cord to help her out and have heat in the winter. Understands that the county has to have rules and regulations. He's just trying to better his life.
2. Gregory & Julie McCoige – 3855 N. 1200 E. Plymouth – In favor of the request.

Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Gustafson. Motion carried by acclamation.

Mr. Wickizer asked Mr. Demis if he had an idea how long the cargo container would be there. Mr. Demis stated that he honestly didn't have a time frame for sure.

When asked why he didn't get an inspection on the footers that were poured Mr. Demis stated he didn't know he needed a permit for a temporary movable structure.

The board explained that the rule says you cannot have a container on the property and if the board allows it for one they have to allow it for everyone.

Mr. Voreis made a motion to deny 19-BZA-57 DEMIS, Robert - Requesting a Special Use to allow an existing storage container on the property to be used as a workshop; located at: 20993 8th Rd., Plymouth, IN West Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0 to deny.

This case is currently sited as a violation. Staff will continue to pursue this removal until the container is removed.

Mr. Demis suggested to the board that they change the ordinance and make it clearer specifically saying storage containers.

Mr. Demis asked if he could have a storage shed on the property. Mr. Adley explained that storage sheds are allowed he would just have to meet the setbacks and apply for a permit if the size is 120 sq ft or greater.

2020 Proposed Calendar

The Marshall County Plan Commission has decided to move their meeting times from 7:30 to 7:00 pm. While the board was asked if they wanted to change their meeting time earlier, they decided to keep the meeting the meeting time the same.

Mr. Wickizer made a motion to retain the meeting time to 7:30pm, seconded by Mr. Kutch. Motion carried by acclamation.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer